# Supporting Statement for Paperwork Reduction Act Submissions

**Information Collection Title**: Respirable Coal Mine Dust Sampling

**Collection Instrument**: Mine Operator Dust Data Card

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| 1219-0011 | 70.201(b)(2), (e), (f), (g), (j);<br>71.201(a), (d), (e); (f);<br>90.201(f), (g), (j) | Sampling; general and technical requirements |
| | 70.205(b)(2); 71.205(b)(2) | Approved sampling devices; operation; air flowrate |
| | 70.210(a), (c), (d), (f);<br>71.207(a), (c), (d), (f);<br>90.208(d), (f) | Respirable dust samples; transmission by operator |
| | 70.208(e)(3), (h)(3), (i)(2) | Quarterly sampling; mechanized mining units |
| | 70.209(c)(3), (f)(3), (g)(2); | Quarterly sampling; designated areas |
| | 71.206(d), (e), (h)(3), (k)(3) | Quarterly sampling; designated work positions |
| | 90.207(c)(3), (f)(3) | Quarterly sampling; |
| | 70.211(b), (c);<br>71.208(b), (c) | Respirable dust samples; report to operator; posting |
| | 90.209(b), (c); | Respirable dust samples; report to operator |
| | 70.212(a); 71.209(a); 90.210 | Status change reports |
| | 71.300(a), (a)(1), (a)(3);<br>90.300(a) | Respirable dust control plan; filing requirements |
| | 71.301(d)(1), (d)(3), (e) | Respirable dust control plan; approval by District Manager and posting |
| | 90.301(d), (e) | Respirable dust control plan; approval by District Manager; copy to part 90 Miner |
| | 75.370(a)(3)(i), (a)(3)(iii), (f)(1), (f)(3) | Mine Ventilation plan: submission and approval |

## General Instructions

**A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When the question "Does this ICR contain surveys, censuses or employ statistical methods" is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.**

## Specific Instructions

### A. Justification

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Chronic exposure to respirable coal mine dust causes lung diseases including coal workers' pneumoconiosis (CWP), emphysema, silicosis, and chronic bronchitis, known collectively as "black lung." These diseases are debilitating and can result in disability and premature death. While considerable progress has been made in lowering dust levels since 1970 and, consequently, lowering the prevalence rate of black lung among coal miners, severe forms of black lung continue to be identified. Information from the federally funded Coal Workers' Health Surveillance Programs administered by the National Institute for Occupational Safety and Health (NIOSH) clearly indicates that black lung remains a key occupational health risk among our nation's coal miners. According to NIOSH, 933 or 3.7 percent of the 25,558 underground coal miners x-rayed between January 2003 and September 2011 were found to have CWP. Also, in FY 2011, over 28,600 former coal miners and the dependents of miners received $417 million in "black lung" benefits. Since inception of the federal Black Lung Benefits Program in 1970, over $45 billion in total benefits have been paid out to former miners and their dependents.

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty to protect the safety and health of miners. Further, Section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary to develop, promulgate, and revise as may be

appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines. This Information Collection 1219-0011 reflects requirements of MSHA's final rule, Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors (79 FR 24814; May 1, 2014) related to respirable coal mine dust sampling in effect on February 1, 2016, and respirable dust standards in effect on August 1, 2016.

MSHA's standards in 30 CFR parts 70, 71, and 90 require each mine operator of an underground coal mine, surface coal mine and, surface work areas of an underground coal mine, and each coal mine operator who employs a Part 90 miner, to protect miners from exposure to excessive respirable coal mine dust levels. Parts 70 and 71 require each coal mine operator to continuously maintain the average concentration of respirable coal mine dust in the mine atmosphere where miners normally work or travel at or below 1.5 milligrams per cubic meter ($mg/m^3$). This standard is reduced using the formula 10 divided by the percent of quartz when the respirable dust contains more than 5 percent quartz. Overexposure to respirable coal mine dust containing quartz has been associated with silicosis (black lung). These lung diseases are irreversible and may be fatal, but they are preventable. Parts 70 and 71 also require each coal mine operator to continuously maintain the average concentration of respirable dust in intake airways at underground mines at or below 0.5 $mg/m^3$.

If a Part 90 miner is employed at the mine, the coal mine operator is required to continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which the Part 90 miner in the active workings of the mine is exposed at or below 0.5 $mg/m^3$. This standard is also reduced if more than 5 percent quartz is found in the mine atmosphere during each shift to which the Part 90 miner is exposed.

MSHA's standards require that coal mine operators sample respirable coal mine dust quarterly and submit these samples to MSHA for analysis to determine if the mine is complying with the applicable dust standards. Underground coal mine operators must sample: the Designated Occupation (DO) and Other Designated Occupation (ODO) in each Mechanized Mining Unit (MMU) under 30 CFR section 70.208 and each Designated Area (DA) at locations specified in the operator's approved mine ventilation plan under 30 CFR section 70.209. In addition, Designated Work Positions (DWPs) at surface coal mines and surface work areas of underground coal mines must be sampled under 30 CFR section 71.206. Furthermore, each part 90 miner must be sampled under 30 CFR section 90.207.

Sampling, General and Technical Requirements under Parts 70, 71, and 90

Section 70.201(b)(2) requires that DAs identified by the underground coal mine operator be sampled quarterly only with an approved Coal Mine Dust Personal Sampling Unit (CMDPSU) unless the operator notifies the District Manager in writing that only an approved Continuous Personal Dust Monitor (CPDM) will be used for all DA sampling at the mine. With respect to DWP sampling, section 71.201(a) requires each mine

operator of a surface coal mine and each mine operator of an underground coal mine with surface work areas who is sampling on the surface to sample with an approved CMDPSU, however, the operator may use an approved CPDM if the operator notifies the District Manager in writing that only an approved CPDM will be used for all DWP sampling at the mine. MSHA does not expect underground coal mine operators to use the CPDM to conduct DA sampling underground, or DWP sampling on the surface area of the underground mine. Also, MSHA does not expect surface coal mine operators to use the CPDM to conduct DWP sampling. Thus, there are no notifications to the MSHA District Manager and therefore no burdens to operators for sections 70.201(b)(2) and 71.201(a).

Sections 70.201(e), 71.201(d), and 90.201(f) require that coal mine operators make records showing the length of: each production shift for each MMU; each normal work shift for each DWP; and each shift for each part 90 miner, respectively. These provisions also require that the records be retained for at least six months, made available for inspection by authorized representatives of the Secretary and, except in the case of part 90 miners, by the representative of miners. The records must also be submitted to the District Manager when requested in writing.

Section 70.211(c)(5) requires that, when CPDMs are used for sampling, underground coal mine operators print, sign and post a paper record (Dust Data Card) with the shift length. Under section 90.209(c)(5), when CPDMs are used for sampling, coal mine operators must print, sign and provide to each part 90 miner a Dust Data Card with the shift length. Under sections 70.210(c) and 71.207(c), if using a CMDPSU, the operator must complete a Dust Data Card, which includes recording the shift length.

There are no separate burdens shown for recording shift lengths for sections 70.201(e) for underground coal mines and 90.201(f) related to part 90 miners when sampling is conducted because records of shift length are accounted for under sections 70.211(c)(5) and 90.209(c)(5) when a CPDM Dust Data Card is printed and signed. However, burdens for recording shift lengths when sampling is not conducted are shown under sections 70.201(e) and 90.201(f).

For surface work areas of underground coal mines and surface coal mines, there is no burden shown for section 71.201(d) when DWP sampling is conducted because records of shift length are accounted for under section 71.207(c) when a CMDPSU Dust Data Card is completed. However, the burden for recording shift length when sampling is not conducted is shown under section 71.201(d).

Sections 70.201(f), 71.201(e), and 90.201(g) require that upon request from the District Manager, the operator must submit the date and time any respirable dust sampling required by part 70, 71, or 90 will begin. The mine operator must submit this information to MSHA at least 48 hours prior to scheduled sampling. In addition, under section 71.201(f), a mine operator may request, in writing, that the rain restriction for a normal work shift as defined in section 71.2 be waived by the District Manager.

Sections 70.210(d), 71.207(d), and 90.208(d) require that all operator samples be considered to be taken to fulfill the sampling requirements of parts 70, 71, and 90, respectively, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for another purpose.

Section 70.201(g) requires that to establish a normal production shift, the operator must record the amount of run-of-mine material produced by each MMU during each shift to determine the average production for the most recent 30 production shifts or for all production shifts if fewer than 30 shifts of production data are available. It also requires that the production records must be retained for at least six months and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Sections 70.201(j) and 90.201(j) allow the mine operator of an anthracite mine that uses the full box, open breast, or slant breast mining method to use either a CPDM or a CMDPSU for respirable coal mine dust sampling required under part 70 or part 90. However, if the mine operator chooses not to use a CPDM, he must notify the District Manager in writing of this decision. To estimate the full cost impact upon coal mine operators, MSHA assumed that these operators will use the CPDM for the required sampling. Therefore, no burden was estimated at this time for these operators to notify the District Manager of their choice not to use the CPDM. Operators may reevaluate whether to use the CPDM. Therefore, future updates to this package may result in a burden for these provisions.

Sampling under Parts 70 and 71

Sections 70.205(b)(2) and 71.205(b)(2) require that if a CMDPSU is used to sample respirable coal mine dust, each approved sampling device must be examined each shift by a person certified in sampling during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the Dust Data Card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable coal mine dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, must also be noted on the back of the Dust Data Card. The burdens for these requirements are included in the burdens estimated to complete the Dust Data Cards under sections 70.210(c) and 71.207(c).

Quarterly Sampling Requirements for Parts 70, 71, and 90

Quarterly sampling requirements are in section 70.208 for MMUs, section 70.209 for DAs, and section 90.207 for part 90 miners. Sections 70.208(e)(3), 70.209(c)(3), and 90.207(c)(3) require that when a valid representative sample meets or exceeds the ECV that corresponds to the applicable standard and particular sampling device used for

either an MMU or DA, respectively, or that corresponds to the applicable standard and particular sampling device used for part 90 miner sampling, the operator must make, upon implementation of corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and, except for part 90 miners, the representative of miners. Also, the records must be made available for inspection by the affected part 90 miner who was sampled.

Sections 70.208(h)(3), 70.209(f)(3), and 90.207(f)(3) require that mine operators, upon issuance of a citation for violation of the applicable standard for either an MMU, DA, or part 90 miner, respectively, must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and, except for part 90 miners, the representative of miners. Also, the records must be made available for inspection by the affected part 90 miner who was sampled.

DWPs at surface coal mines and surface work areas of underground coal mines must be sampled quarterly under section 71.206. Under section 71.206(d), operators with multiple work positions that are specified in section 71.206(c)(2) and (c)(3) must sample the DWP exposed to the greatest respirable dust concentration in each work position performing the same activity or task at the same location at the mine and exposed to the same dust generation source. Each operator must provide the District Manager with a list identifying the specific work positions where DWP samples will be collected for: active mines; new mines; and DWPs with a change in operational status that increases or reduces the number of active DWPs.

Section 71.206(e) requires that each DWP sample must be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample must be transmitted to MSHA with a notation by the person certified in sampling on the back of the Dust Data Card stating that the sample was not taken on a normal work shift. Section 71.207(c) requires that a person certified in sampling properly complete the Dust Data Card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and include that person's MSHA Individual Identification Number (MIIN). A separate burden has not been included for section 71.206(e) since MSHA assumed that

any notations can be made at the same time that the Dust Data Card is completed under section 71.207(c).

Section 71.206(h)(3) requires that when a valid representative sample taken in accordance with this section meets or exceeds the ECV that corresponds to the applicable standard and particular sampling device used, the operator must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners. There are no separate burden estimates projected for section 71.206(h)(3). MSHA assumed that surface samples that meet or exceed the applicable ECV will result in a citation, and this burden appears under section 71.206(k)(3).

Section 71.206(k)(3) requires that upon issuance of a citation for violation of the applicable standard, the operator must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Transmission of Respirable Coal Mine Dust Samples by the Operator under Parts 70, 71, and 90

Sections 70.210(a) and 71.207(a) require that if a CMDPSU is used to sample, the operator must transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of part 70, 71, or 90, including control filters, in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochrans Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

Sections 70.210(c) and 71.207(c) require that a person certified in sampling properly complete the Dust Data Card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may be voided by MSHA.

Sections 70.210(f), 71.207(f), and 90.208(f) require that if a CPDM is used to sample, the person certified in sampling must validate, certify and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling. All CPDM data files transmitted electronically to MSHA must be maintained by the operator for at least 12 months.

The burdens for sections 70.210(a), (c), and (f), 71.207(a) and (c), and 90.208(f) are included in the burdens for sections 70.210, 71.207, and 90.208. Section 71.207(f) pertains only to using the CPDM. However, operators of surface coal mines and operators of surface work areas of underground coal mines are only required to use the CPDM for part 90 miner sampling, and MSHA does not expect them to use the CPDM to conduct DWP sampling. Thus, the burden for section 71.207(f) is accounted for in the burden for section 90.208(f).

Report to the Operator of Respirable Dust Samples; Post or Provide Results and Report under Parts 70, 71, and 90

Sections 70.211(b) and 71.208(b) require that upon receipt of the sampling report that contains sampling results from MSHA, the operator must post the data for at least 31 days on the mine bulletin board. Sections 70.211(c) and 71.208(c) require, if using a CPDM, the person certified in sampling must, within 12 hours after the end of each sampling shift, to print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of each sample run. This hard-copy record must include the data entered when the sample run was first programmed and the following: the mine identification number; the locations within the mine or the DWP at the mine from which the samples were taken; the concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; the sampling status conditions encountered for each sample; and the shift length. Section 71.208(c) requires that when CPDMs are used for DWP sampling, underground coal mine operators that have surface work areas and surface coal mine operators print, sign, and post a paper record (Dust Data Card) with the shift length and other information regarding sampling for each location sampled under Part 71. MSHA does not expect that the CPDM will be used for DWP sampling by underground coal mine operators on the surface area of the underground mine, or by surface coal mine operators. Therefore, no burden was estimated at this time for Section 71.208(c).

Section 90.209(b) requires that upon receipt of the sampling report from MSHA, the operator must provide a copy to the part 90 miner only. Section 90.209(c) requires that if using a CPDM, the person certified in sampling must print, sign, and provide to each part 90 miner, a paper record (Dust Data Card) of the sample run within one hour after the start of the part 90 miner's next work shift. This hard copy record must include the data entered when the sample run was first programmed, and the following: the mine identification number; the location within the mine from which the sample was taken; the concentration of respirable dust, expressed as an equivalent concentration reported and

stored for each sample; the sampling status conditions encountered for each sample; the shift length; and the part 90 miner's MSHA Individual Identification Number (MIIN).

Operational Status Changes under Parts 70, 71, and 90

Sections 70.212(a), 71.209(a), and 90.210 require that if there is a change in operational status that affects the respirable dust sampling requirements of part 70, 71, or 90, respectively, the operator must report the change in operational status of the mine, MMU, DA, DWP, or part 90 miner (such as the part 90 miner entering a terminated, injured or ill status, or returning to work) to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes must be reported in writing or electronically within 3 working days after the status change has occurred.

Revised Dust Control Parameters in the Mine Ventilation Plan in Response to Violations of the Applicable Standard under Part 70

Sections 70.208(i)(2) and 70.209(g)(2) provide that a citation for violation of the applicable standard shall be terminated by MSHA when the operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU, or the DA, respectively, in the citation and such changes have been approved by the District Manager. The revised parameters must reflect the control measures used by the operator to abate the violation.

Dust Control Plan Provisions in Response to Violations of the Applicable Standard under Part 71

Section 71.300(a) requires that the operator must submit to the District Manager for approval a written respirable dust control plan applicable to the DWP identified in the citation within 15 calendar days after the termination date of a citation for violation of the applicable standard. The respirable dust control plan and revisions must be suitable to the conditions and the mining system of the coal mine and be adequate to continuously maintain respirable dust within the applicable standard at the DWP identified in the citation.

Section 71.300(a)(1) requires that the mine operator must notify the representative of miners at least 5 days prior to submission to MSHA of a respirable dust control plan and any revision to a dust control plan. If requested, the mine operator must provide a copy to the representative of miners at the time of notification.

Section 71.300(a)(3) requires that a copy of the proposed respirable dust control plan, and a copy of any proposed revision, submitted for Agency approval must be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision must remain posted until it is approved, withdrawn, or denied.

Under section 71.301(d)(1), the approved respirable dust control plan and any revisions

must be provided upon request to the representative of the miners by the operator following notification of approval.

Under section 71.301(d)(3), the plan or revisions must be posted on the mine bulletin board within 1 working day following notification of approval and remain posted for the period that the plan is in effect.

Under section 71.301(e), the operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

Dust Control Plan Provisions in Response to Violations of the Applicable Standard under Part 90

Section 90.300(a) requires that if an operator abates a violation of the applicable standard by reducing the respirable dust level in the position of the part 90 miner, the operator must submit to the District Manager for approval a written respirable dust control plan for the part 90 miner in the position identified in the citation within 15 calendar days after the citation is terminated. The respirable dust control plan and revisions thereof must be suitable to the conditions and the mining system of the coal mine and be adequate to continuously maintain respirable dust within the applicable standard for that part 90 miner.

Section 90.301(d) requires the operator to provide a copy of the current respirable dust control plan to the part 90 miner.

Under section 90.301(e), the operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

Mine Ventilation Plan Revisions, Notify Miners' Representatives, Provide Copy, and Posting

Section 75.370(a)(3)(i) requires underground coal mine operators to notify the miners' representative at least 5 days prior to submission of mine ventilation plan and any revision and, if requested, provide a copy to the miners' representative at the time of notification. Section 75.370(a)(3)(iii) and (f)(3) require the operator to post a copy of the proposed plan and any proposed revision, and the MSHA-approved plan and any revisions , respectively, on the mine bulletin board. In addition, section 75.370(f)(1) requires the operator to provide a copy of the MSHA-approved plan and any revisions to the miners' representative, if requested.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The records related to respirable coal mine dust sampling that are required under the

rule assist mine operators, miners, and state and federal regulators to determine the adequacy of respirable coal mine dust control measures used to meet MSHA's applicable respirable coal mine dust standards and protect miners from exposure to excessive levels of respirable coal mine dust.

This information, which is provided by operators, is vital to the effective administration of mine operators' respirable coal mine dust control programs and allows operators and MSHA to assess the programs' effectiveness. MSHA uses the information to determine which operators comply with required sampling requirements and dust standards, and which operators fail to protect miners from excessive dust concentrations and thus need to take appropriate measures to lower respirable dust levels in the mine atmosphere. After MSHA processes samples submitted by operators, the Agency uses the collected information to report sample results to mine operators. Mine operators provide miners notification of sampling results when operators post them on the mine bulletin board or when operators provide Part 90 miners with copies of the results. The sampling results enable the Agency to effectively evaluate the adequacy of the coal mine operator's respirable dust control measures, identify mine operators for targeted enforcement activities, and plan and undertake special health emphasis initiatives, such as the "Miners' Choice Program" and the "End Black Lung ACT NOW!" initiative.

In addition, mine operators must submit respirable dust control plans and revisions for MSHA approval and, after MSHA-approval, comply with such plans. The requirement to post the plan, or provide a copy of the plan to the affected Part 90 miner, allows affected miners to acquaint themselves with the types and locations of dust control measures that are required to be used and maintained to control respirable coal mine dust. MSHA inspectors use the plan to determine whether the mine operator is complying with plan provisions and to assess the plan's continued effectiveness in maintaining compliance with the applicable respirable coal mine dust standards.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

For mine operators who use Coal Mine Dust Personal Sampler Units (CMDPSU) for respirable coal mine dust sampling, no improved information technology has been identified by MSHA that would reduce the burden associated with the completion of Dust Data Cards. This is because each operator-collected sample when transmitted to MSHA for processing must be physically attached to its properly completed accompanying Dust Data Card. The information recorded on the Dust Data Card provides important details about the sample, when and where it was collected, production conditions in effect during sampling, and who was responsible for certifying that it was properly collected. Consequently, this particular information collection technique does not lend itself to electronic submission. However, mine operators submit

a large percentage of sampling dates (sections 70.201(f), 71.201(e), and 90.201(g)), status change reports (sections 70.212(a), 71.209(a), and 90.210), and respirable dust control plans (sections 71.300 and 90.300) electronically.

Mine operators who use Continuous Personal Dust Monitors (CPDMs) for respirable coal mine dust sampling download their sampling data to a computer and transmit the data electronically to MSHA, as well as, print out the data for posting on the mine bulletin board for interested parties to review. Electronic transmission of the CPDM data reduces errors related to transcribing the data and ensures that the data have not been altered. In addition, the quick assessment of sampling results from the CPDM provides operators and miners with real-time data that allows for immediate action to prevent miners from being overexposed to respirable coal mine dust. After downloading and transmitting the sampling data to MSHA, mine operators can store this information electronically.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

A mine operator completes a Dust Data Card for each individual dust sample collected and submitted to MSHA to demonstrate that the mine is free of excessive dust concentrations and, therefore, is complying with mandatory exposure limits. Without these samples and the accompanying specified information about each sample and the production conditions in effect during sampling, MSHA could not ascertain whether a mine operator is in compliance with the mandatory dust exposure limits. While MSHA also conducts dust sampling periodically, its purpose is not only to supplement the operator's sampling program, but also to: (1) monitor the effectiveness of the operator's respirable dust control programs; (2) determine whether the occupation being sampled by the operator has been properly designated for sampling as the occupation at risk of being exposed to the highest dust concentrations; (3) determine if excessive levels of quartz are present, which would require the dust standard to be reduced further to be more protective; and (4) identify work positions at surface coal mines or surface work areas of underground coal mines that should be designated for routine quarterly monitoring by coal mine operators. Since the purpose of MSHA and operator sampling have somewhat different objectives, there is no duplication of effort. MSHA knows of no other federal, state, or local agency that collects similar information on dust samples required for compliance purposes or that collects similar information on respirable dust control plans.

**5. If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.**

These information collection requirements are imposed on all coal mining operations and do not have a greater impact on small businesses or other small entities. However, MSHA believes that the burden on small mines could not be reduced without adversely affecting MSHA's dust control enforcement efforts.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Because mining conditions are constantly changing, the quality of the air that miners breathe must be monitored on a routine basis to ensure that it is free of excessive dust levels to prevent development of “black lung” disease. Therefore, the Mine Act and MSHA’s standards require specific occupations, miners, and work locations to be sampled by mine operators every 3 months (quarterly). Monitoring the quality of the mine air that miners breathe less frequently would provide an inadequate indication of the dust conditions to which miners are normally exposed. This would increase the likelihood that excessive dust conditions would go undetected. Consequently, the health of miners would be adversely impacted if excessive dust concentrations could not be detected and reduced.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**
*** requiring respondents to report information to the agency more often than quarterly;**
*** requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
*** requiring respondents to submit more than an original and two copies of any document;**
*** requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
*** in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
*** requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
*** that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
*** requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Sections 70.208, 70.209, 71.206, and 90.207 require coal mine operators to sample and submit sampling information to MSHA on a quarterly basis. In addition, under sections 70.208(h)(4), 70.209(f)(4), 71.206(k)(4) and 90.207(f)(2)(i), each mine operator must submit abatement samples following issuance of a citation for the main purpose of demonstrating that the mine is free of excessive dust concentrations and in compliance with mandatory dust exposure. Also, when a change occurs in the operational status of a mine, MMU, DA, DWP, or part 90 miner that affects the sampling requirements of 30 CFR parts 70, 71, and 90, the change must be reported in writing to the MSHA District

Office within 3 working days after the status change has occurred in accordance with sections 70.212(a), 71.209(a), and 90.210. Proper notification prevents MSHA from taking unnecessary enforcement actions against mine operators for failing to submit the required number of dust samples during a sampling period.

Once adopted by the mine operator, a respirable dust control plan for a DWP or part 90 miner in the position identified in a citation must remain in effect for the life of the surface coal mine or surface work area of an underground coal mine, time that the part 90 miner remains in the position, or until the MSHA District Manager determines that the plan is no longer necessary. MSHA-approved respirable dust control plans provide the basis for MSHA to determine whether miners will be adequately protected from excessive dust concentrations during each shift.

The collection of information is otherwise consistent with the guidelines in 5 CFR 1320.5.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

MSHA published a 60-day Federal Register notice on September 17, 2015 (80 FR 55874). MSHA received no comments.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

MSHA does not provide payments or gifts to respondents identified by this collection.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

While MSHA provides no confidentiality assurances in connection with this collection, as

a practical matter, all records pertaining to Part 90 miners are kept confidential and stored in locked cabinets at applicable District Offices, and accessed only by authorized individuals. For the information collected under part 70, 71, and 90 that is entered into the MSHA Standard Information System (MSIS), only authorized persons have access to the information in this system. A request for MSHA records containing mine operator responses would be processed in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 522) and its attendant DOL regulations, 29 CFR part 70.

In the event a mine operator should include proprietary information in the respirable dust control plan, such data will be kept confidential by MSHA consistent with the guidelines outlined in 5 U.S.C. 552(b)(4).

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**
*** Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
*** If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
*** Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under Item 13.**

The number of responses for this submission is 1,704,366 from 1,035 unique respondents (mining operations).

**Record of Shift Length**

Record the Length of the Shift – Sampling; General and Technical Requirements – Sections 70.201(e), 71.201(d), and 90.201(f)

Sections 70.201(e), 71.201(d) and 90.201(f) require the operator to make a record showing the length of each production shift for each MMU, normal work shift for each DWP and each shift for each part 90 miner, respectively, to retain the records for at least six months, and to make the records available for inspection by authorized representatives of the Secretary and, except in the case of part 90 miners, by the miners' representative.

Underground Coal Mines

When CPDM sampling is conducted for MMUs and part 90 miners, sections 70.211(c) and 90.209(c) require coal mine operators to print, sign and post on the mine bulletin board for each MMU, or provide to each part 90 miner, respectively, the Dust Data Card that provides information required by paragraph (c), including shift length. Thus, the burden to record the shift length when sampling is being conducted is accounted for under sections 70.211(c) and 90.209(c). When sampling is not being conducted, the burden for recording shift length is accounted for here under sections 70.201(e) and 90.201(f).

Annually, MSHA estimates that approximately 50 percent of total production shifts for MMUs are not sampled with the CPDM or 192,050 production shifts (12,600 shifts in mines with 1-19 employees x 0.50) + (312,000 shifts in mines with 20-500 employees x 0.50) + (59,500 shifts in mines with 501+ employees x 0.50). In addition, of all shifts worked by part 90 miners annually, MSHA estimates that 13,200 of them are not sampled with a CPDM.

When CMDPSU sampling is conducted for DWPs at surface areas of underground coal mines, section 71.207(c) requires operators to complete the Dust Data Card, which includes recording shift length. Thus, the burden to record the shift length when DWP sampling is being conducted is accounted for under section 71.207(c). When sampling is not being conducted, the burden for recording shift length for DWPs is accounted for here under sections 71.201(d).

MSHA estimates that the number of DWPs are: 5 DWPs in mines with 1-19 employees; 82 DWPs in mines with 20-500 employees; and 26 DWPs in mines with 501+ employees. MSHA estimates that the number of shifts per day is 1 in mines with 1-19 employees, and 2 in mines with 20 or more employees. Also, MSHA estimates that the number of workdays per year is: 200 in mines with 1-19 employees and 300 in mines with 20-500 employees, 350 in mines with 501+ employees. MSHA estimates that approximately 99 percent of DWP shifts are not sampled annually or 67,716 DWP shifts (1,000 shifts in mines with 1-19 employees x 0.99 + 49,200 shifts in mines with 20-500 employees x 0.99 + 18,200 shifts in mines with 501+ employees x 0.99).

Thus, MSHA estimates that, annually, the number of shifts where underground coal mine operators will need to record shift length under sections 70.201(e), 90.201(f), and 71.201(d) when sampling does not occur are

272,966 shifts (192,050 MMU shifts + 13,200 part 90 miner shifts + 67,716 DWP shifts). MSHA estimates that it takes a miner, earning $42.10[1] per hour, 1 minute to record the shift length.

Surface Coal Mines

When CMDPSU sampling is conducted for DWPs at surface coal mines, section 71.207(c) requires operators to complete the Dust Data Card, which includes recording shift length. Thus, the burden to record the shift length when DWP sampling is being conducted is accounted for under section 71.207(c). When sampling is not being conducted, the burden for recording shift length for DWPs is accounted for here under sections 71.201(d).

MSHA estimates that the number of DWPs are: 716 DWPs in mines with 1-19 employees; 936 DWPs in mines with 20-500 employees; and 38 DWPs in mines with 501+ employees. MSHA estimates that the number of shifts per day is: 1 in mines with 1-19 employees, 2 in mines with 20 or more employees. Also, MSHA estimates that the number of workdays per year is: 250 in mines with 1-19 employees; 300 in mines with 20-500 employees, and 350 in mines with 501+ employees. MSHA estimates that approximately 99 percent of DWP shifts are not sampled annually or 759,528 DWP shifts (179,000 shifts in mines with 1-19 employees x 0.99 + 561,600 shifts in mines with 20-500 employees x 0.99 + 26,600 shifts in mines with 501+ employees x 0.99). For surface coal mines, MSHA estimates that it takes a miner, earning $36.54 per hour[2], 1 minute to record shift length for a DWP.

The annual burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

Burden Hours
272,966 records x 1minute = 4,559 hrs.

Hour Burden Costs
4,559 hrs. x $42.10 wage rate = $191,934

Surface Coal Mine Operators

Burden Hours
759,528 DWP records x 1minute = 12,684 hrs.

[1] The wage rate (including benefits) was developed from tabulations in the *U.S. Coal Mines Salaries, Wages, and Benefits – 2012 Survey Results*, InfoMine USA, Inc., 2012 http://costs.infomine.com/laborcompensationreports/. The wage rates were adjusted from 2012 to 2014 using a percent change of 3.8%, derived from the Bureau of Labor Statistics' Employment Cost Index (ECI), CIU2010000405000I, for "Private industry workers in Construction, extraction, farming, fishing, and forestry occupations," http://www.bls.gov/ect/ and http://data.bls.gov/timeseries/CIU2010000405000I. ($42.10= $40.56 x 1.038)

[2] See note 2. ($36.54=$35.20- x 1.38)

Hour Burden Costs
12,684 hrs. x $36.54 wage rate = $463,473

Responses: 1,032,494 (272,966 + 759,528)

**Total Responses = 1,032,494**
**Total Burden Hours = 17,243**
**Total Burden Costs = $655,407**

**Submission of Sampling Dates**

Sections 70.201(f); 71.201(e) and (f); and 90.201(g)

Upon request from the District Manager, a mine operator must submit in advance the dates when sampling will be conducted under sections 70.201(f), 71.201(e) and 90.201(g). At surface work areas of underground coal mines and at surface coal mines, operators can also make a written request under section 71.201(f) asking the District Manager to waive the rain restriction for a normal work shift as defined section 71.2. The Agency anticipates requesting and receiving 360 sampling schedules per year. MSHA estimates that it will take a mine supervisor 20 minutes to prepare a quarterly sampling schedule, and a clerical person another 10 minutes to type and either mail, fax, or transmit electronically the schedule to the MSHA District Office. Composite hourly wage rates, that include both underground and surface wages, are $92.54[3] for a supervisor and $29.66[4] for a clerical employee. Annual burden hours and hour burden costs are shown below.

Underground and Surface Coal Mine Operators

Burden Hours
360 schedules x 20 minutes = 119 hrs.
360 schedules x 10 minutes = 61 hrs.
Sub-total = 180 hrs.

Hour Burden Cost
119 hrs. x $92.54 wage rate = $11,012
61 hrs. x $29.66 wage rate = $1,809
Sub-total = $12,821

**Total Responses: = 360**
**Total Burden Hours = 180**
**Total Burden Costs = $12,821**

[3] See note 2. ($92.54=$89.15 x 1.38)
[4] See note 2. ($29.66=$28.57 x 1.38)

**Provide Samples for Purposes Other than Compliance**

Sections 70.210(d), 71.207(d), and 90.208(d)

Sections 70.210(d), 71.207(d), and 90.208(d) require that an operator sample that is submitted to MSHA is considered to be taken to fulfill the sampling requirements of parts 70, 71, and 90, respectively, unless the sample has been identified in writing by the operator to the District Manager that it is to be used for another purpose. It is very rare that an operator submits a sample for reasons other than compliance with parts 70, 71, and 90, for purposes of this collection. However, MSHA estimates that there will be one occurrence annually and that it will take a mine supervisor 5 minutes to notify the District Manager in writing of the intent to submit samples for reasons other than compliance. The composite hourly wage rate, which includes both underground and surface wages, is $92.54 for a supervisor. Annual burden hours and hour burden costs are shown below.

Underground and Surface Coal Mine Operators

Burden Hours (rounded up to full hour)
1 notification x 5 minutes = 1 hr.

Hour Burden Costs
1 hr. x $92.54 wage rate = $93

**Total Responses: = 1**
**Total Burden Hours: = 1**
**Total Burden Costs: = $93**

**Change in Operational Status**

Sections 70.212(a), 71.209(a), and 90.210

When a change occurs in the operational status of a mine, MMU, DA, DWP, or part 90 miner that affects the sampling requirements of 30 CFR parts 70, 71, and 90, the change must be reported in writing to the MSHA District Office within 3 working days after the status change has occurred in accordance with sections 70.212(a), 71.209(a), and 90.210. MSHA anticipates receiving 2,540 status changes annually. MSHA estimates that it will take a mine supervisor 5 minutes to prepare a status change report, and a clerical person 10 minutes to type and transmit by mail or electronically the report to MSHA. Composite hourly wage rates, that include both underground and surface wages, are $92.54 for a supervisor and $29.66 for a clerical employee. Annual burden hours and hour burden costs are shown below.

Underground and Surface Coal Mine Operators

Burden Hours
2,540 reports x 5 minutes = 211 hrs.
2,540 reports x 10 minutes = 432 hrs.

| | |
|---|---|
| Sub-total | = 643 hrs. |
| Hour Burden Cost | |
| 211 hrs. x $92.54 wage rate | = $19,526 |
| 432 hrs. x $29.66 wage rate | = $12,813 |
| Sub-total | = $32,339 |

| | |
|---|---|
| **Total Responses:** | **= 2,540** |
| **Total Burden Hours:** | **= 643** |
| **Total Burden Costs:** | **= $32,339** |

**Record of Production**

Record Production in Underground Coal Mines
Section 70.201(g)

Section 70.201(g) requires the operator to record the amount of run-of-mine material produced by each MMU during each shift. Production data are used to determine the average production for the most recent 30 production shifts or for all production shifts if fewer than 30 shifts of production data are available. The operator must retain production records for at least six months and make them available for inspection by authorized representatives of the Secretary and the miners' representative.

Some mines already record the material produced per shift; however, most do not. Since nearly all mines with 1-19 employees operate 1 shift per day, MSHA estimates that the 63 MMUs in underground coal mines with 1-19 employees operate 1 shift per day (or 63 shifts per day). MSHA estimates that material produced is not recorded for 90 percent of these shifts, or approximately 57 shifts per day (63 shifts x 90 percent). In addition, MSHA estimates that 520 MMUs in underground coal mines with 20-500 employees operate 2 shifts per day (or 1,040 shifts per day). MSHA estimates that material produced is not recorded for 75 percent of these shifts operating each day or 780 shifts (1,040 shifts x 75 percent). Finally, all mines with 501+ employees are assumed to already record the amount of material produced. MSHA estimates that the annual number of workdays is: 200 days in mines with 1-19 employees; and 300 days in mines with 20-500 employees. MSHA assumes that an underground coal supervisor, earning $101.30 per hour[5], takes 5 minutes to record the material produced on each shift. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

| | |
|---|---|
| Burden Hours | |
| 245,400 shifts x 5 minutes | = 20,442 hrs. |

[5] See note 2. ($46.31=$42.10 x 1.1)

Hour Burden Costs
20,442 hrs. x $101.30 wage rate = $2,070,775

**Total Responses: = 245,400**
**Total Burden Hours: = 20,442**
**Total Burden Costs: = $2,070,775**

**List of DWPs to MSHA**

List the DWPs – Section 71.206(d)

Section 71.206(d) requires operators to provide the MSHA District Manager with a list identifying the specific work positions where DWP samples will be collected. MSHA estimates that it takes a supervisor 12 minutes to prepare the list. A supervisor's hourly wage rate is $101.30 at underground mines and $82.21[6] at surface mines. MSHA estimates that a clerical employee takes an additional 12 minutes to prepare and send it to MSHA. A clerical employee's hourly wage rate is $29.12[7] at underground mines and $30.30[8] at surface mines.

MSHA estimates that the number of underground coal mines with surface areas that have DWPs are 68 mines (4 mines with 1-19 employees, 51 mines with 20-500 employees, and 13 mines with 501+ employees). MSHA estimates that the number of surface coal mines with DWPs are 626 (378 mines with 1-19 employees, 243 mines with 20-500 employees, and 5 mines with 501+ employees). MSHA assumes that 10 percent of these mines will update their list annually (7 underground coal mines and 63 surface coal mines). Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Burden Hours
7 mines x 12 minutes. = 1 hr.
7 mines x 12 minutes. = 1 hr.
Sub-total = 2 hrs.

Hour Burden Costs
1 hr. x $29.12 wage rate = $29
1 hr. x $101.30 wage rate = $101
Sub-total = $130

Surface Coal Mine Operators

Burden Hours
63 mines x 0.2 hrs. = 13 hrs.

[6] See note 2. ($82.21=$79.20 x 1.38)
[7] See note 2. ($29.12=$28.05 x 1.38)
[8] See note 2. ($30.30=$29.19 x 1.38)

| | |
|---|---|
| 63 mines x 0.2 hrs. | = 13 hrs. |
| Sub-total | = 26 hrs. |
| Hour Burden Costs | |
| 13 hrs. x $30.30 wage rate | = $394 |
| 13 hrs. x $82.21 wage rate | = $1,069 |
| Sub-total | = $1,463 |

Responses 70 = (7 + 63)

| | |
|---|---|
| **Total Responses:** | **= 70** |
| **Total Burden Hours:** | **= 28** |
| **Total Burden Costs:** | **= $1,593** |

**Compliance Sampling**

**Compliance Sampling with a CMDPSU**

Complete and Sign Dust Data Card and Transmit Samples to MSHA – Sections 70.210(a) and (c) and 71.207(a) and (c)

Notations if Proper Flow Rate not Maintained – Sections 70.205(b)(2) and 71.205(b)(2), or if Normal Work Shift was not Achieved – Section 71.206(e)

Under sections 70.210(a) and 71.207(a), if using a CMDPSU, the operator must transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of parts 70 and 71. Under sections 70.210(c) and 71.207(c), a person certified in sampling must properly complete and sign the Dust Data Card that is provided by the manufacturer for each filter cassette.

Under sections 70.205(b)(2) and 71.205(b)(2), if using the CMDPSU, and the proper flow rate was not maintained during a sampled shift, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the Dust Data Card stating that the proper flow rate was not maintained. Other events occurring during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, must be noted on the back of the Dust Data Card.

Under section 71.206(e) if a normal work shift is not achieved on the sampled shift, the respirable dust sample must be transmitted to MSHA with a notation by the person certified in sampling on the back of the Dust Data Card stating that the sample was not taken on a normal work shift.

The burden for section 70.210(c) concerning completing the Dust Data Card includes the burden for section 70.205(b)(2) concerning notations on the Dust Data Card since MSHA assumes that any notations required to be made on the Dust Data card can be made at the time the Dust Data Card is completed. For this same reason, the burden for section 71.207(c) includes the burdens for

sections 71.205(b)(2) and 71.206(e).

Normally these tasks are performed by a certified person earning $46.31 per hour[9] in an underground coal mine and $40.19 per hour[10] in a surface coal mine. MSHA estimates that a certified person takes 6 minutes to prepare and send one sample with the Dust Data Card to MSHA.

After the Dust Data Card has been filled out, a certified person signs the card and includes that person's MSHA Individual Identification Number (MIIN) on the card. MSHA estimates that a certified person (normally the mine safety inspector or an equivalent person, such as a supervisor) takes 1.5 minutes to complete and sign the Dust Data Card. MSHA also estimates that a supervisor's hourly wage rate is $101.30 in an underground mine and $82.21 in a surface mine.

For underground coal mines, MSHA's annual estimate of 4,755 Dust Data Cards (3,728 related to outby DAs and 1,027 related to DWPs) is based on annualizing six months of data ending May 2015. For surface coal mines, MSHA annualized data during the same time period to obtain its annual estimate of 9,245 Dust Data Cards related to DWP sampling. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Burden Hours

| | |
|---|---|
| 4,755 data cards x 6 minutes | = 476 hrs. |
| 4,755 data cards x 1.5 minutes | = 119 hrs. |
| Sub-total | = 595 hrs. |

Hour Burden Costs

| | |
|---|---|
| 476 hrs. x $46.31 wage rate | = $22,044 |
| 119 hrs. x $101.30 wage rate | = $12,055 |
| Sub-total | = $34,099 |

Surface Coal Mine Operators

Burden Hours

| | |
|---|---|
| 9,245 data cards x 6 minutes | = 925 hrs. |
| 9,245 data cards x 1.5 minutes | = 231 hrs. |
| Sub-total | = 1,156 hrs. |

Hour Burden Costs

| | |
|---|---|
| 925 hrs. x $40.19 wage rate | = $37,176 |
| 231 hrs. x $82.21 wage rate | = $18,991 |
| Sub-total | = $56,167 |

Responses 14,000 (4,755 + 9,245)

[9] See note 2. ($46.31=$42.10 x 1.1)

[10] See note 2. ($40.19=$38.72 x 1.1)

**Total Responses: = 14,000**
**Total Burden Hours: = 1,751**
**Total Burden Costs: = $90,266**

Post MSHA Report – Sections 70.211(b) and 71.208(b)

After processing the CMDPSU samples, MSHA sends a report that contains the sampling data to the operator. Upon receiving the report, sections 70.211(b) and 71.208(b) require operators to post the sampling data on the mine bulletin board. MSHA estimates that a clerical employee takes 6 minutes to copy and post the data. The hourly wage rate for a clerical employee is $29.12 in an underground mine and $30.30 in a surface mine. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Burden Hours
4,755 postings of MSHA Reposts x 6 minutes = 476 hrs.
Hour Burden Costs
476 hrs. x $29.12 wage rate = $13,861

Surface Coal Mine Operators

Burden Hours
9,245 postings of MSHA Reports x 6 minutes = 925 hrs.
Hour Burden Costs
925 hrs. x $30.30 wage rate = $28,028

Responses 14,000 (4,755 + 9,245)

**Total Responses: = 14,000**
**Total Burden Hours: = 1,401**
**Total Burden Costs: = $41,889**

**Compliance Sampling with a CPDM at Underground Mines**

Validate, Certify, and Transmit CPDM Sampling Data to MSHA – Sections 70.210(f) and 90.208(f)

Sections 70.210(f) and 90.208(f) apply when operators use CPDMs to sample. These standards require that within 24 hours after the end of each sampling shift, a certified person must validate, certify and transmit electronically to MSHA the sample data file information collected and stored in the CPDM.

MSHA estimates that validating, certifying, and uploading the CPDM data to a computer and then transmitting it electronically to MSHA takes a certified person, earning $46.31 per hour, 6 minutes. MSHA estimates that 195,430

CPDM samples (consisting of DO and ODO sampling as required by section 70.208 and part 90 miner sampling as required by section 90.207) must be validated, certified and transmitted to MSHA within 24 hours after the end of each sampling shift by a certified person. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Burden Hours
195,430 samples x x 6 minutes = 19,543 hrs.

Hour Burden Costs
19,543 hrs. x $46.31 wage rate = $905,036

**Total Responses: = 195,430**
**Total Burden Hours: = 19,543**
**Total Burden Costs: = $905,036**

Post MSHA Report; Print, Sign and Post CPDM Paper Record (Dust Data Card) – Section 70.211(b) and (c);

Provide MSHA Report and Print, Sign and Provide CPDM Paper Record (Dust Data Card) to Part 90 Miners – Section 90.209(b) and (c)

Section 70.211(b) requires the operator to post sampling data from the MSHA report on the mine bulletin board and section 90.209(b) requires the operator to provide copies of the MSHA report to part 90 miners.

Sections 70.211(c) and 90.209(c) apply to operators who use a CPDM. Section 70.211(c) requires the person certified in sampling to print, sign and post on the mine bulletin board within 12 hours after the end of each sampling shift a paper record (Dust Data Card) of the sample run, also called the hard copy record, on the mine bulletin board within 12 hours after the end of each sampling shift. Section 90.209(c) requires the person certified in sampling to print, sign and provide the paper record (Dust Data Card) of the sample run to each part 90 miner within one hour after the start of the part 90 miner's next work shift.

MSHA assumes that posting sampling data results from an MSHA report under section 70.211(b) can be done at the same time as posting a paper record (Dust Data Card) from a different sample run under section 70.211(c). Similarly, providing a part 90 miner with an MSHA report under section 90.209(b) can be done at the same time as providing the part 90 miner with a paper record (Dust Data Card) from a different sample run under section 90.209(c). MSHA estimates that it takes the same amount of time to provide a copy of the MSHA report and paper record (Dust Data Card) of the sample run to the part 90 miner as it does to post the MSHA report on the mine bulletin board.

Sections 70.211(c) and 90.209(c) state that the paper record (Dust Data Card) of the sample run must include the data entered when the sample run was first programmed and the following: 1) the mine identification number; 2) the location within the mine from which the sample was taken; 3) the concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; 4) sampling status conditions encountered for each sample; 5) the shift length; and 6) for the part 90 miner, the miner's MSHA Individual Identification number. This information is included on the dust data card that is printed from the CPDM. MSHA expects that a copy of the printout will be posted, or provided to the part 90 miner, to satisfy the requirements of those provisions.

As noted above under sections 70.211(c) and 90.209(c), the shift length is included in the paper record (Dust Data Card) of the sample run. However, a record is also required of the shift length for: each production shift for each MMU under section 70.201(c); and each shift worked by a part 90 miner under section 90.201(f). Records of shift length were developed earlier under sections 70.201(e) and 90.201(f) for shifts where sampling did not occur. The burden for recording the shift length on a sampled shift is accounted for here in developing the burden for section 70.211(c) and 90.209(c).

The estimates of the number of CPDM samples per year are used to derive the burden hours and hour burden costs to print, sign and post the paper record (Dust Data Card) of the sampling data, and provide the sampling data to the part 90 miner. MSHA estimates that a certified person, earning $46.31 per hour, takes 10 minutes to print, sign and post the CPDM Dust Data Card or provide the sampling data to the part 90 miner. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Burden Hours
195,430 postings of sampling data or provide data to part 90 miner x 10 minutes = 32,578 hrs.

Hour Burden Costs
32,578 hrs. x $46.31 wage rate = $1,508,687

**Total Responses: = 195,430**
**Total Burden Hours: = 32,578**
**Total Burden Costs: = $1,508,687**

**Part 90 Miner Compliance Sampling with a CPDM at Surface Mines**

Validate, Certify, and Transmit CPDM Sampling Data to MSHA – Sections 71.207(f) and 90.208(f)

Sections 71.207(f) and 90.208(f) require that, within 24 hours after the end of each sampling shift, a person certified in sampling must validate, certify and transmit electronically to MSHA the sampling data file information collected and stored in the CPDM. Surface coal mine operators are only required to use the CPDM for Part 90 miner sampling, thus MSHA expects that all other sampling by these operators will be conducted with the CMDPSU. The burden hours below are for surface coal mine operators using the CPDM for part 90 sampling. At this time, MSHA does not expect any burden related to using the CPDM for sampling under section 71.207(f). MSHA estimates that validating, certifying, and uploading the CPDM data from a CPDM to a computer, and then transmitting it electronically to MSHA takes a certified person, earning $40.19 per hour, 6 minutes. MSHA estimates that there will be 160 Part 90 miner samples annually at surface coal mines. Annual burden hours and hour burden costs are shown below.

Surface Coal Mine Operators

Burden Hours
160 samples x 6 minutes = 16 hrs.

Hour Burden Costs
16 hrs. x $40.19 wage rate = $643

**Total Responses: = 160**
**Total Burden Hours: = 16**
**Total Burden Costs: = $643**

Provide MSHA Report and Print, Sign and Provide CPDM Paper Record (Dust Data Card) to Part 90 Miners – Section 90.209(b) and (c)

Section 90.209(b) requires the operator to provide a copy of the MSHA report of sampling data received by the operator under section 90.209(a) to part 90 miners. In addition, section 90.209(c) requires that, when using a CPDM, operators must print, sign, and provide each part 90 miner a paper record (Dust Data Card) of the sampling run, also called the hard copy record, to part 90 miners. The hard-copy record must include the data entered when the sample run was first programmed and the following: 1) the mine identification number; the location within the mine from which the samples were taken; 2) the location within the mine from which the samples were taken; 3) the concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; 4) the sampling status conditions encountered for each sample; 5) the shift length; and 6) the part 90 miner's MSHA Individual Identification Number (MIIN). This information is included on the CPDM Dust Data Card. Providing the part 90 miner with an MSHA report under section 90.209(b) and the Dust Data Card from a different sample run under section 90.209(c) can be done at the same time.

As noted above, the shift length is included in the paper record (Dust Data Card) of the sample run under section 90.209(c). However, a record is also required of the shift length for each shift worked by a part 90 miner under section 90.201(f). Records of shift length were developed earlier under section 90.201(f) for shifts where sampling did not occur. The burden for recording the shift length on a sampled shift is accounted for here in developing the burden for section 90.209(c).

A new CPDM filter is used every time a CPDM is used to sample and a Dust Data Card with the information noted above, with the exception of the shift length, is generated after the sample is taken. Thus, MSHA estimates the number of times Dust Data Cards will be provided to part 90 miners is equal to the number of CPDM filters used. Sampling data under section 90.209(b) and (c) can be provided to the part 90 miner at the same time. MSHA estimates that a certified person in a surface mine, earning $40.19 per hour, takes 3 minutes to perform the functions described above and make a copy of the sampling data. MSHA estimates that there will be 160 Part 90 miner samples annually at surface coal mines. Annual burden hours and hour burden costs are shown below.

Surface Coal Mine Operators

Burden Hours
160 sampling data records provided to part 90 miner x 3 minutes = 8 hrs.

Hour Burden Costs
8 hrs. x $40.19 wage rate = $322

**Total Responses: = 160**
**Total Burden Hours: = 8**
**Total Burden Costs: = $322**

**Meeting or Exceeding the Excessive Concentration Value (ECV) When Conducting Compliance Sampling**

Record and Certify Corrective Actions – Sections 70.208(e)(3) 70.209(c)(3), 71.206(h)(3), and 90.207(c)(3)

For MMUs under section 70.208(e)(3), DAs under section 70.209(c)(3), DWPs under section 71.206(h)(3), and part 90 miners under section 90.207(c)(3), when a valid representative sample taken in accordance with part 70, 71 or 90 meets or exceeds the excessive concentration value (ECV) that is specified in parts 70, 71 or 90, that corresponds to the applicable standard and particular sampling device used, the operator must make a record of the corrective actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. Using six months of data ending May 2015,

MSHA developed an annual estimate of 557 corrective action records at underground coal mines and 24 corrective action records at surface coal mines.

MSHA estimates that, it takes 12 minutes to make a record of corrective actions and certify the record. MSHA assumes that a supervisory person, earning $101.30 per hour in an underground coal mine and $82.21 per hour in a surface coal mine, will make the record. In addition, MSHA assumes that a mine foreman or equivalent mine official that certifies the record also earns a supervisory hourly wage rate. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Annual Burden Hours
557 records x 0.2 hrs. = 111 hrs.

Hour Burden Costs
111 hrs. x $101.30 wage rate = $11,244

Surface Coal Mine Operators

Annual Burden Hours
24 records x 0.2 hrs. = 5 hrs.

Hour Burden Costs
5 hrs. x $82.21 wage rate = $411

Responses 581 (557 + 24)

**Total Responses: = 581**
**Total Burden Hours: = 116**
**Total Burden Costs: = $11,655**

**Related to Abatement Sampling**

Record and Certify Corrective Actions – Sections 70.208(h)(3), 70.209(f)(3), 71.206(k)(3), and 90.207(f)(3)

On implementation of the corrective actions, a record of the corrective actions must be made and certified under sections 70.208(h)(3) and 70.209(f)(3) for underground coal mine operators; section 71.206(k)(3) for surface coal mine operators; and section 90.207(f)(3) for part 90 miners. Using six months of data ending May 2015, MSHA developed an annual estimate of 175 corrective action records at underground coal mines and 12 corrective action records at surface coal mines.

MSHA estimates that, it takes 12 minutes (to make a record of corrective actions and certify the record. MSHA assumes that a supervisory person,

earning $101.30 per hour in an underground coal mine and $82.21 per hour in a surface coal mine, will make the record. In addition, MSHA assumes that a mine foreman or equivalent mine official that certifies the record also earns a supervisory hourly wage rate. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Burden Hours
175 records per year x 12 minutes = 35 hrs.

Hour Burden Costs
35 hrs. x $101.30 wage rate = $3,546

Surface Coal Mine Operators

Burden Hours
12 records per year x 12 minutes = 2 hrs.

Hour Burden Costs
2 hrs. x $82.21 wage rate = $164

Responses 187 (175 +12)

**Total Responses: = 187**
**Total Burden Hours: = 37**
**Total Burden Costs: = $3,710**

Complete and Sign Dust Data Card and Transmit Samples to MSHA – Sections 70.210(a) and (c), and 71.207(a),and (c),

Notations if Proper Flow Rate not Maintained Sections 70.205(b)(2) and 71.205(b)(2), or if Normal Work Shift was not Achieved Section 71.206(e)

Validate, Certify, and Transmit Sampling Data to MSHA – Section 70.210(f), 71.207(f), and 90.208(f)

Under sections 70.210(a) and 71.207(a), if using a CMDPSU, the operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of parts 70 and 71. Under sections 70.210(c) and 71.207(c), a person certified in sampling shall properly complete the Dust Data Card that is provided by the manufacturer for each filter cassette. Under sections 70.210(f), 71.207(f), and 90.208(f) if using a CPDM, the person certified in sampling shall validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM.

Under sections 70.205(b)(2) and 71.205(b)(2), if using the CMDPSU, and

the proper flow rate was not maintained during a sampled shift, the respirable dust sample shall be transmitted to MSHA with a notation by the certified person on the back of the Dust Data Card stating that the proper flow rate was not maintained. Other events occurring during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, shall be noted on the back of the Dust Data Card.

Under section 71.206(e) if a normal work shift is not achieved on the sampled shift, the respirable dust sample shall be transmitted to MSHA with a notation by the person certified in sampling on the back of the Dust Data Card stating that the sample was not taken on a normal work shift.

The burden for section 70.210(c) concerning completing the Dust Data Card includes the burden for section 70.205(b)(2) concerning notations on the Dust Data Card since MSHA assumes that any notations required to be made on the Dust Data Card can be made at the time the Dust Data Card is completed. For the same reason, the burden for section 71.207(c) includes the burdens for sections 71.205(b)(2) and 71.206(e).

Underground coal mine operators must conduct DO and ODO abatement sampling using CPDMs. MSHA assumes that underground coal mine operators will conduct outby DA abatement sampling with the CMDPSU. Surface coal mine operators are also assumed to conduct abatement sampling using CMDPSUs.

When Using a CMDPSU

When abatement sampling is conducted with the CMDPSU, the sample, the control filter, and completed Dust Data Card, must be mailed to MSHA. The costs for submitting a sample are as follows. MSHA estimates that the person completing the Dust Data Card is a certified person earning $46.31 per hour in an underground coal mine and $40.19 in a surface coal mine. MSHA estimates that a certified person will take 6 minutes to complete and send the Dust Data Card with the sample to MSHA. MSHA estimates that a supervisory person, earning $101.30 per hour in an underground mine and $82.21 per hour in a surface mine, takes 1.5 minutes to review and sign the Dust Data Card, and include that person's MSHA Individual Identification Number (MIIN).

When Using the CPDM

When conducting abatement sampling with the CPDM, the sampling data file information is transmitted electronically and no mailing occurs. MSHA estimates that validating, certifying, and uploading the abatement sampling data from the CPDM to a computer and then transmitting the data electronically to MSHA takes a certified person, earning $46.31 per hour, 6 minutes Surface coal mine operators are only required to use the CPDM for Part 90 miner sampling. MSHA does not expect that surface coal mine operator will be issued a citation for a part 90 sample result and therefore part 90 abatement sampling will not occur for them.

Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators – CMDPSU Sampling

Burden Hours

| | |
|---|---|
| 24 data cards x 6 minutes | = 2 hrs. |
| 24 data cards x 1.5 minutes | = 1 hr. |
| Sub-total | = 3 hrs. |

Hour Burden Costs

| | |
|---|---|
| 2 hrs. x $46.31 wage rate | = $93 |
| 1 hr. x $101.30 wage rate | = $101 |
| Sub-total | = $194 |

Underground Coal Mine Operators – CPDM Sampling

Burden Hours

| | |
|---|---|
| 1,376 data cards x 6 minutes | = 138 hrs. |

Hour Burden Costs

| | |
|---|---|
| 138 hrs. x $46.31 wage rate | = $6,391 |

Surface Coal Mine Operators CMDPSU Sampling

Burden Hours

| | |
|---|---|
| 96 data cards x 6 minutes | = 10 hrs. |
| 96 data cards x 1.5 minutes. | = 2 hrs. |
| Sub-total | = 12 hrs. |

Hour Burden Costs

| | |
|---|---|
| 10 hrs. x $40.19 wage rate | = $402 |
| 2 hrs. x $82.21 wage rate | = $164 |
| Sub-total | = $566 |

Responses 1,496 (24 + 1,376 + 96)

| | |
|---|---|
| **Total Responses:** | **= 1,496** |
| **Total Burden Hours:** | **= 153** |
| **Total Burden costs:** | **= $7,151** |

Post MSHA Report – Section 71.208(b)

Post MSHA Report; Print, Sign and Post Sampling Dust Data Card – Section 70.211(b) and (c)

Provide MSHA Report and Print, Sign and Provide CPDM Paper Record (Dust Data Card) to Part 90 Miners – Section 90.209(b) and (c)

Sections 70.211(b) and 71.208(b) require the operator to post sampling data from the MSHA report on the mine bulletin board and section 90.209(b) requires

the operator to provide copies of the MSHA report to part 90 miners. Sections 70.211(c), 71.208(c), and 90.209(c) apply to operators who use a CPDM. Sections 70.211(c) and 71.208(c) require the person certified in sampling to print, sign and post on the mine bulletin board within 12 hours after the end of each sampling shift a paper record (Dust Data Card) of the sample run, also called the hard copy record, on the mine bulletin board within 12 hours after the end of each sampling shift. Section 90.209(c) requires the person certified in sampling to print, sign and provide the paper record (Dust Data Card) of the sample run to each the part 90 miner within one hour after the start of the part 90 miner's next work shift.

MSHA assumes that posting sampling data results from an MSHA report under sections 70.211(b) and 71.208(b) can be done at the same time as posting a paper record (Dust Data Card) from a different sample run under sections 70.211(c) and 71.208(c). Similarly, providing a part 90 miner with an MSHA report under section 90.209(b) can be done at the same time as providing a paper record (Dust Data Card) from a different sample run under section 90.209(c). MSHA estimates that it takes the same amount of time to provide a copy of the MSHA report and paper record (Dust Data Card) of the sample run to the part 90 miner as it does to post the MSHA report on the mine bulletin board.

MSHA estimates that a clerical employee, earning $29.12 per hour in an underground mine and $30.30 in a surface mine, takes 6 minutes to copy and post the sampling data. MSHA's current practice is to transmit the MSHA reports to the operator in a group, so the number of times to post or provide results to the part 90 miner equates to the number of citations issued. Annual burden hours and hour burden costs are shown below.

Underground Coal Mine Operators

Burden Hours
1,400 postings of sampling data or provide data to part 90 miner x 6 minutes = 140 hrs.

Hour Burden Costs
140 hrs. x $29.12 wage rate = $4,077

Surface Coal Mine Operators

Burden Hours
96 postings of sampling data or provide data to part 90 miner x 6 minutes = 10 hrs.

Hour Burden Costs
10 hrs. x $30.30 wage rate = $303

Responses 1,496 (1,400 + 96)

**Total Responses:** **= 1,496**
**Total Burden Hours:** **= 150**
**Total Burden Costs:** **= $4,380**

Revisions to Mine Ventilation Plan or Develop or Revise Dust Control Plan – Sections 70.208(i)(2), 70.209(g)(2), 71.300(a), and 90.300(a)

Under section 70.208(i)(2), a citation for violation of the applicable standard shall be terminated by MSHA when the operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU in the citation and the changes have been approved by the District Manager. Under section 70.209(g)(2) a citation for violation of the applicable standard shall be terminated by MSHA when the operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the DA in the citation and the changes have been approved by the District Manager.

Under section 71.300(a), within 15 calendar days after the termination date of a citation for violation of the applicable standard, the operator shall submit to the District Manager for approval a written respirable dust control plan applicable to the DWP identified in the citation. Under section 90.300(a) if an operator abates a violation of the applicable standard by reducing the respirable dust level in the position of the part 90 miner, the operator shall submit to the District Manager for approval a written respirable dust control plan for the part 90 miner in the position identified in the citation within 15 calendar days after the citation is terminated.

MSHA estimates that it takes a supervisor, earning $101.30 per hour in an underground coal mine and $82.21 per hour in a surface coal mine, 15 minutes to make mine ventilation plan revisions, or develop or revise dust control plans. Also, MSHA estimates that it takes a clerical employee, earning $29.12 in an underground coal mine and $30.30 in a surface coal mine, another 15 minutes to prepare and send the material to MSHA. Annual burden hours and burden hour costs are shown below.

Underground Coal Mine Operators

Burden Hours

| | |
|---|---|
| 175 plans x 15 minutes | = 44 hrs. |
| 175 plans x 15 minutes | = 44 hrs. |
| Sub-total | = 88 hrs. |

Burden Hour Costs

| | |
|---|---|
| 44 hrs. x $29.12 wage rate | = $1,281 |
| 44 hrs. x $101.30 wage rate | = $4,457 |
| Sub-total | = $5,738 |

Surface Coal Mine Operators

Burden Hours

| | |
|---|---|
| 12 plans x 15 minutes | = 3 hrs. |
| 12 plans x 15 minutes. | = 3 hrs. |
| Sub-total | = 6 hrs. |

Burden Hour Costs

| | |
|---|---|
| 3 hrs. x $30.30 wage rate | = $91 |
| 3 hrs. x $82.21 wage rate | = $247 |
| Sub-total | = $338 |

Responses 187 (175 +12)

| | |
|---|---|
| **Total Responses:** | **= 187** |
| **Total Burden Hours:** | **= 94** |
| **Total Burden Costs:** | **= $6,076** |

Notify Miners' Representative of Plan Revisions and Provide Copy – Section 75.370(a)(3)(i) and (f)(1); Sections 71.300(a)(1) and 71.301(d)(1), and 90.301(d)

Operators are required to notify the miner's representatives of mine ventilation plan revisions, or new or revised dust control plans and, if requested, provide the representative with a copy of the plan, and proposed and approved plan revisions (under Section 75.370(a)(3)(i) and (f)(1) for underground coal operators and Sections 71.300(a)(1) and 71.301(d)(1) for surface coal operators). Under part 90.301(d), the operator shall provide a copy of the current respirable dust control to the part 90 miner.

MSHA estimates that it takes a clerical employee 15 minutes to notify and provide a copy of the plan or plan revisions to the representative of miners or the part 90 miner. MSHA estimates that a clerical employee earns $29.12 per hour in an underground coal mine and $30.30 in a surface coal mine. The number of notifications is equal to the number of citations. Annual burden hours and burden hour cost are shown below.

Underground Coal Mine Operators

Burden Hours
175 plans x 15 minutes. = 44 hrs.

Burden Hour Costs
44 hrs. x $29.12 wage rate = $1,281

Surface Coal Mine Operators

Burden Hours
12 plans x 15 minutes = 3 hrs.

Burden Hour Costs
3 hrs. x $30.30 wage rate = $91

Responses 187 (175+12)

**Total Responses: = 187**
**Total Burden Hours: = 47**
**Total Burden Costs: = $1,372**

Post Copy of Plan or Plan Revision – Section 75.370(a)(3)(iii) and (f)(3), and Sections 71.300(a)(3) and 71.301(d)(3)

Operators must post a copy of the proposed and approved mine ventilation plan or revisions under Sections 75.370(a)(3)(iii) and (f)(3) for underground coal mines; and post a copy of the proposed dust control plan and any revisions under Section 71.300(a)(3) and the approved plan and any revisions under Section 71.301(d)(3) for surface coal mines. The number of postings equate to the number of citations issued. MSHA estimates that a clerical employee, earning $29.12 in an underground coal mine and $30.30 in a surface coal mine, takes 15 minutes to copy, and post. Annual burden hours and burden hour costs are shown below.

Underground Coal Mine Operators

Burden Hours
175 plans x 15 minutes = 44 hrs.

Burden Hour Costs
44 hrs. x $29.12 wage rate = $1,281

Surface Coal Mine Operators

Burden Hours
12 plans 15 minutes = 3 hrs.

Burden Hour Costs

| | |
|---|---|
| 3 hrs. x $30.30 wage rate | = $91 |

Responses 187 (175 + 12)

| | |
|---|---|
| **Total Responses:** | **= 187** |
| **Total Burden Hours:** | **= 47** |
| **Total Burden Costs:** | **= $1,372** |

| Summary Table for Answer to Question 12 | | | |
|---|---|---|---|
| **Sections** | **Responses** | **Burden Hours** | **Burden Costs** |
| 70.201(e), 71.201(d), 90.201(f) | 1,032,494 | 17,243 | $655,407 |
| 70.201(f), 71.201(e),(f), 90.201(g) | 360 | 180 | $12,821 |
| 70.210(d), 71.207(d), 90.208(d) | 1 | 1 | $93 |
| 70.212(a), 71.209(a), 90.210 | 2,540 | 643 | $32,339 |
| 70.201(g) | 245,400 | 20,442 | $2,070,775 |
| 71.206(d) | 70 | 28 | $1,593 |
| **Compliance with a CMDPSU** | | | |
| 70.210(a),(c), 71.207(a),(c), 70.205(b)(2), 71.205(b)(2), 71.206(e) | 14,000 | 1,751 | $90,266 |
| 70.211(b), 71.208(b) | 14,000 | 1,401 | $41,889 |
| **Compliance Sampling with a CPDM at UG Mines** | | | |
| 70.210(f), 90.208(f) | 195,430 | 19,543 | $905,036 |
| 70.211(b),(c), 90.209(b),(c) | 195,430 | 32,578 | $1,508,687 |
| **Compliance Sampling Part 90 Miners with a CPDM at Surface Mines** | | | |
| 71.207(f), 90.208(f) | 160 | 16 | $643 |
| 90.209(b) and (c) | 160 | 8 | $322 |
| **Meeting or Exceeding The Excessive Concentration Value (ECV) When Conducting Compliance Sampling** | | | |
| 70.208(e)(3), 70.209(c)(3), 71.206(h)(3), 90.207(c)(3) | 581 | 116 | $11,655 |
| **Related to Abatement Sampling** | | | |
| 70.208(h)(3), 70.209(f)(3), 71.206(k)(3), 90.207(f)(3) | 187 | 37 | $3,710 |
| 70.210(a),(c),(f), 71.207(a),(c),(f), 90.208(f), 70.205(b)(2), 71.205(b)(2), 71.206(e) | 1,496 | 153 | $7,151 |
| 70.211(b),(c), 71.208(b), 90.209(b),(c) | 1,496 | 150 | $4,380 |
| 70.208(i)(2), 70.209(g)(2), 71.300(a), 90.300(a) | 187 | 94 | $6,076 |
| 75.370(a)(3)(i),(f)(1); 71.300(a)(1), 71.301(d)(1), 90.301(d) | 187 | 47 | $1,372 |
| 75.370(a)(3)(iii),(f)(3); 71.300(a)(3), 71.301(d)(3) | 187 | 47 | $1,372 |
| **Total** | **1,704,366** | **94,478** | **$5,355,587** |

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).**
*** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
*** If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
*** Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

Costs to Mail Sampling Schedule – Sections 70.201(f), 71.201(e) and 90.201(g):

The average postage for the operator to mail a sampling schedule is $0.45. Annually, MSHA estimates that 360 sampling schedules are submitted by underground and surface coal mine operators, of which 10 percent (36 sampling schedules) are submitted by mail. The remaining sampling schedules are submitted electronically. Annual mailing costs are shown below.

36 schedules x $0.45 to mail = **$16**

Costs to Mail Operational Status Changes – Sections 70.212(a), 71.209(a) and 90.210:

The average postage for the operator to report changes in the operational status is $0.45. Annually, MSHA estimates that 2,540 status change reports are submitted by underground and surface coal mine operators, of which 10 percent (254 status change reports) are submitted by mail. The remaining status change reports are submitted electronically. Annual mailing costs are shown below.

254 status change reports x $0.45 to mail = **$114**

List of DWPs

Cost to Mail List of DWPs – Section 71.206(d)

Section 71.206(d) requires operators to provide the MSHA District Manager with a list identifying the specific work positions where DWP samples will be collected. MSHA estimates $1 per mine to mail the list to MSHA.

MSHA estimates that the number of underground coal mines with surface areas that have DWPs are 68 mines (4 mines with 1-19 employees, 51 mines with 20-500 employees, and 13 mines with 501+ employees). MSHA estimates that the number of surface coal mines with DWPs are 626 (378 mines with 1-19 employees, 243 mines with 20-500 employees, and 5 mines with 501+ employees). MSHA assumes that 10 percent of these mines will update their lists annually (7 underground coal mines and 63 surface coal mines). Of these mines, 10 percent are assumed to update by mail (1 underground coal mine and 6 surface coal mines). Annual mailing costs are shown below.

Underground Coal Mine Operators
1 mine x $1 to mail = $1

Surface Coal Mine Operators
6 mines x $1 to mail = $6

**Total Burden Costs: =$7**

**Compliance Sampling with a CMDPSU**

Costs to Transmit the Dust Data Card with CMDPSU Samples to MSHA – Sections 70.210(a) and (c), and 71.207(a) and (c)

Sections 70.210(a) and (c) and 71.207(a) and (c) require each CMDPSU sample to be transmitted to MSHA with a completed Dust Data Card. All CMDPSU samples are submitted by mail. MSHA estimates $1 per sample to mail for mines with 1-19 employees. For mines with 20-500 employees and 501+ employees, MSHA assumes that 2 samples will be sent in each mailing, for a mailing cost of $0.50 per sample. Annual mailing costs are shown below.

Underground Coal Mine Operators

580 data cards for mines with 1-19 employees
x $1 to mail per sample = $580
3,433 data cards for mines with 20-500 employees
x $0.50 to mail per sample = $1,717

742 data cards for mines with 501+ employees
x $0.50 to mail per sample = $371
Sub-total Costs = $2,668

Surface Coal Mine Operators

2,995 data cards for mines with 1-19 employees
x $1 to mail per sample = $2,995
5,917 data cards for mine with 20-500 employees
x $0.50 to mail per sample = $2,959
333 data cards for mines with 501+ employees
x $0.50 to mail per sample = $167
Sub-total Costs = $6,121

**Total Burden Costs: = $8,789**

Copy Costs for Posting MSHA Report of CMDPSU Sampling Results – Sections 70.211(b) and 71.208(b)

After processing the CMDPSU samples, MSHA sends a report with the sampling data results to the operator. Upon receiving the report, sections 70.211(b) and 71.208(b) require operators to post the data on the mine bulletin board. MSHA estimates one-page copy costs of $0.15 per report. Annual costs for are shown below.

Underground Coal Mine Operators

4,755 MSHA Reports x $0.15 per copy = $713

Surface Coal Mine Operators

9,245 MSHA Reports x $0.15 per copy = $1,387

**Total Burden Costs: = $2,100**

**Compliance Sampling with a CPDM at Underground Mines**

Copy Costs for: Posting MSHA Reports and CPDM Paper Records (Dust Data Cards) – Section 70.211(b) and (c); and MSHA Reports and CPDM Paper Records (Dust Data Cards) Provided to Part 90 Miners – Section 90.209(b) and (c)

Section 70.211(b) requires the operator to post sampling data from the MSHA report on the mine bulletin board and section 90.209(b) requires the operator to provide copies of the MSHA report to part 90 miners. Sections 70.211(c) and 90.209(c) apply to

operators who use a CPDM. Section 70.211(c) requires the person certified in sampling to print, sign and post on the mine bulletin board within 12 hours after the end of each sampling shift a paper record (Dust Data Card) of the sampling run. Section 90.209(c) requires that the paper record (Dust Data Card) be provided to each part 90 miner. MSHA estimates the copy cost per report and paper record (Dust Data Card) is $0.15. Annual copy costs are shown below.

Underground Coal Mine Operators

195,430 postings of sampling data or provide data to part 90 miner x $0.15 per copy = **$29,315**

**Part 90 Miner Compliance Sampling with a CPDM at Surface Coal Mines**

Copy Cost to Provide MSHA Report and CPDM Paper Record (Dust Data Card) to Part 90 Miners – Section 90.209(b) and (c)

Section 90.209(b) requires the operator to provide a copy of the MSHA report of sampling data received by the operator under section 90.209(a) to part 90 miners. Section 90.209(c) requires operators to provide the CPDM paper record (Dust Data Card) to part 90 miners. MSHA estimates 160 part 90 miner samples annually, and that it costs $0.15 to make a copy of each report and Dust Data Card. Annual costs are shown below.

Surface Coal Operators

160 sampling data records (Dust Data Card) for part 90 miners x $0.15 per copy = **$24**

**Abatement Sampling**

Cost to Transmit Dust Data Card with CMDPSU Samples to MSHA – Sections 70.210(a) and (c), and 71.207(a) and (c)

Under section 70.210(a) and (c) for underground coal mines, and section 71.207(a) and (c) for surface coal mines and surface work areas of underground coal mines, operators must complete and sign Dust Data Cards and transmit the cards with the abatement samples to MSHA.

In underground coal mines, MSHA expects abatement samples will be taken with the CPDM. CPDM samples are transmitted electronically and no mailing occurs. Thus, there are no mailing costs related to abatement sampling for underground coal operators.

Most dust sampling in surface coal mines will be conducted with the CMDPSU and when abatement sampling is conducted with the CMDPSU, the sample must be mailed with a completed Dust Data Card to MSHA. MSHA estimates that it will cost $1 to mail each sample for mines with 1-19 employees. For mines with 20-500 employees and 501 or more employees, MSHA assumes that 2 samples will be sent in each mailing, for a cost of $0.50 to mail each sample. Annual mailing costs for the number of dust citations that occur in surface coal mines are shown below.

Surface Coal Mine Operators

16 samples with Dust Data Cards in mines with 1-19 employees
x $1 to mail per sample = $16
8 samples with Dust Data Cards in mines with 20-500 employees
x $0.50 to mail per sample = $4

**Total Costs = $20**

Copy Costs for: Posting the MSHA Report and the Paper Record (Dust Data Card) under Sections 70.211(b) and (c), 71.208(b) and (c); and Providing to the Part 90 Miner the MSHA Report and the Paper Record (Dust Data Card) under Sections 90.209(b) and (c)

Operators are required to post sampling data from the MSHA report and the paper record (Dust Data Card) of the sample run under section 70.211(b) and (c), respectively, at underground coal mines; and under section 71.208(b) and (c), respectively, at surface coal mines and surface work areas of underground coal mines. Under section 90.209(b), operators must provide to the part 90 miner a copy of the MSHA report. Under section 90.209(c), the paper record (Dust Data Card) must be provided to the part 90 miner. MSHA estimates that it costs $0.15 per copy for the MSHA report and CPDM Dust Data Card. Annual copy costs for 1,400 copies of posting sampling results are shown below.

Underground Coal Mine Operators

1,400 copies of posted sampling results
x $0.15 per copy = $210

Surface Coal Mine Operators

96 copies of posted sampling results
x $0.15 per copy = $ 14

**Total Burden Costs: = $224**

Copy and Transmission Costs for Mine Ventilation Plan Revisions or Dust Control Plan or Revisions – Sections 70.208(i)(2), 70.209(g)(2), 71.300(a), and 90.300(a)

To terminate a citation for a violation of the respirable dust standard at underground coal mines, the operator must have submitted revised dust control parameters as part of the mine ventilation plan, applicable to the MMU in the citation under Sections 70.208(i)(2), and applicable to the DA in the citation under 70.209(g)(2). At surface work areas of underground coal mines and at surface coal mines, section 71.300(a) requires that within 15 calendar days after the termination date of a citation for violation of the applicable standard, the operator submit to the District Manager for approval a written respirable dust control plan. Under section 90.300(a) if an operator abates a violation of the applicable standard by reducing the respirable dust level in the position of the part 90 miner, the operator shall submit to the District Manager for approval a written respirable dust control plan for the part 90 miner in the position identified in the citation within 15 calendar days after the citation is terminated. MSHA estimates that a plan or plan revision will be two pages, copy costs are $0.15 per page, and postage is $1.00, for a total cost per revision of $1.30. The number of revisions is equal to the number of citations that will result in new or revised plans. Annual costs are shown below.

Underground Coal Mine Operators

175 plans x $1.30 for copy and transmission costs = $228

Surface Coal Mine Operators

12 plans x $1.30 for copy and transmission costs = $16

**Total Burden Costs: = $244**

Copy Costs for Notifying Miners' Representative of Plan or Revision and Providing Copy of Plan or Revision – Section 75.370(a)(3)(i) and (f)(1), Sections 71.300(a)(1) and 71.301(d)(1), and
Providing Copy of Plan or Revision to Part 90 miner – Section 90.301(d)

Under section 75.370(a)(3)(i), underground coal mine operators must notify the representative of miners at least 5 days prior to submission of a mine ventilation plan and any revisions and, if requested, provide a copy to the representative at the time of notification. Under section 75.370(f)(1), upon request, the operator must provide a copy of the approved mine ventilation plan an any revisions to the miners' representative. Under section 71.300(a)(1), operators of underground coal mines with surface work areas, and operators of surface coal mines must notify the representative of miners at least 5 days prior to submission of a dust control plan and any revisions. Under section 71.301(d)(1), upon request, the operator must provide to the miners' representative a copy of the approved dust control plan and any revisions. Under section 90.301(d) the operator must provide a copy of the current respirable dust control

plan to the part 90 miner. MSHA estimates that a plan or plan revision will be, on average, two pages and copy costs are $0.15 per page. MSHA assumes that all miners' representatives will request a copy of the plan revisions. The number of notifications is equal to the number of citations that will result in new or revised plans. Annual copy costs are shown below.

Underground Coal Mine Operators

| | |
|---|---|
| 175 plans x $0.30 per copy | = $53 |

Surface Coal Mine Operators

| | |
|---|---|
| 12 plans x $0.30 per copy | = $4 |
| **Total Burden Costs:** | **= $57** |

Copy Costs for Posting a Plan or Plan Revision – Section 75.370(a)(3)(iii) and (f)(3), and Sections 71.300(a)(3) and 71.301(d)(3)

A proposed ventilation plan and any revisions under section 75.370(a)(3)(iii) and a proposed dust control plan and any revisions under 71.300(a)(3) that are submitted for approval must be posted on the mine bulletin board at the time of submittal. The approved mine ventilation plan under section 75.370(f)(3) and the approved dust control plan under section 71.301(d) must be posted The number of postings equates to the number of citations that will result in a plan or plan revision. MSHA estimates that a plan or revision will be two pages and copy costs are $0.15 per page. Annual copy costs are shown below.

Underground Coal Mine Operators

| | |
|---|---|
| 175 plans x $0.30 per copy | = $53 |

Surface Coal Mine Operators

| | |
|---|---|
| 12 plans x $0.30 per copy | = $4 |
| **Total Burden Costs:** | **= $57** |

| Summary Table for Answer to Question 13 | |
|---|---|
| **Sections** | **Burden Costs** |
| 70.201(f), 71.201(e), 90.201(g) | $16 |
| 70.212(a), 71.209(a), 90.210 | $114 |
| 71.206(d) | $7 |
| **Compliance Sampling with a CMDPSU** | |
| 70.210(a),(c), 71.207(a),(c) | $8,789 |
| 70.211(b), 71.208(b) | $2,100 |
| **Compliance Sampling with a CPDM at Underground Mines** | |
| 70.211(b),(c), 90.209(b),(c) | $29,315 |
| **Part 90 Miner Sampling with a CPDM at Surface Mines** | |
| 90.209(b),(c) | $24 |
| **Abatement Sampling** | |
| 70.210(a),(c), 71.207(a),(c) | $20 |
| 70.211(b),(c), 71.208(b),(c), 90.209(b),(c) | $224 |
| 70.208(i)(2), 70.209(g)(2), 71.300(a), 90.300(a) | $244 |
| 75.370(a)(3)(i),(f)(1), 71.300(a)(1), 71.301(d)(1), 90.301(d) | $57 |
| 75.370(a)(3)(iii),(f)(3), 71.300(a)(3), 71.301(d)(3) | $57 |
| **Total** | **$40,967** |

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

MSHA incurs costs in processing operator samples submitted under sections 70.210, 71.207 and 90.208 in response to the operator sampling requirements in sections 70.208, 70.209, 71.206, and 90.207

With respect to the CMDPSU, upon receiving the operator's dust sample and the accompanying Dust Data Card, MSHA's Respirable Dust Processing Laboratory in Pittsburgh, PA, weighs each received sample using a robotic weighing system employing micro-balances, records the results, and enters the information recorded on the data card into a personal computer for electronic transmission to MSHA's Standardized Information System (MSIS) on the main computer in Denver, CO, for processing. With respect to the CPDM, upon receiving operators' electronic submissions of dust sampling data generated by the CPDM, MSHA's Denver, CO, personnel maintain and process the data to MSIS.

For both the CMDPSU and CPDM, MSHA checks the received information for accuracy and completeness, performs required calculations of average concentration, and produces various computer-generated reports called data mailers. These data mailers, which contain specific information obtained from the dust sample and Dust Data Card, are mailed in accordance with sections 70.211(a), 71.208(a), and 90.209(a) to coal mine operators to communicate the disposition of each submitted dust sample and any required follow-up action. MSHA also incurs costs for maintaining equipment, computer software licenses, and supplies.

| | |
|---|---|
| Sample processing and data transmission to MSIS for CMDPSU samples: | |
| MSHA personnel cost | = $167,715 |
| Equipment and annual maintenance cost (vacuum pump, robotic weighing system, analytical balances, and PCs) | = $30,469 |
| Misc. supplies (labels, paper, etc.) | = $1,700 |
| Subtotal | = **$199,884** |
| | |
| Data processing and data transmission to MSIS for CPDM samples: | |
| MSHA personnel cost | = $341,516 |
| Contractor Staff | = $300,000 |
| Maintenance (Software licensing, PCs, printer, and supplies) | = $6,800 |
| Subtotal | = **$648,316** |

Data processing and reporting results to mine operators for CMDPSU and CPDM samples:

| | |
|---|---|
| CMDPSU Data Mailers (31,200 unlabeled mailers x $0.17) | = $5,304 |
| CPDM Data Mailers (14,280 unlabeled mailers x $0.17) | = $2,428 |
| Postage (31,200 + 14,280) x $1 | = $45,480 |
| Data Storage | = $1,000 |
| Subtotal | = **$54,212** |

Sections 70.201(f), 71.201(e) and (f), and 90.201(g)

Upon request from the District Manager, a mine operator must submit in advance of sampling the dates when sampling will be conducted under sections 70.201(f), 71.201(e) and 90.201(g). At surface work areas of underground coal mines and at surface coal mines, operators can also make a written request under section 71.201(f) asking the District Manager to waive the rain restriction for a normal work shift as defined section 71.2. MSHA anticipates requesting approximately 100 sampling schedules annually, and expects to receive approximately 360 responses from coal mine operators, as some mine operators submit schedules automatically. It will take an Agency clerical employee, earning $27.53 per hour[11] (GS-6), an average of 15 minutes to type and mail each request, and an average of 10 minutes to process each operator response; and an Agency health and safety specialist, earning $52.00 per hour[12] (GS 12), an average of 15 minutes to review and distribute each response to respective field offices for follow-up action.

Hour Burden

| | |
|---|---|
| 100 requests x 15 minutes | = 25 hrs. |
| 360 responses x 10 minutes | = 61 hrs. |
| 360 responses x 15 minutes. | = 90 hrs. |
| Sub-total | = 176 hrs. |

Hour Burden Cost

| | |
|---|---|
| 86 hrs. x $27.53 wage rate | = $2,368 |
| 90 hrs. x $52.00 wage rate | = $4,680 |
| Sub-total | = **$7,048** |

Sections 70.212(a), 71.209(a), and 90.210

When a change occurs in the operational status of a mine, MMU, DA, DWP, or part 90

[11] The wage rates shown here come from the Office of Personnel Management (OPM) March 2015 FedScope employment cube, http://www.fedscope.opm.gov/. Average salary was obtained for the appropriate grade and occupation for DOL-MSHA employees. In order to include the cost of benefits, this annual average salary was multiplied by a benefits scaler of 1.36 computed from MSHA's 2015 budget submission. The final hourly wage rate was derived by dividing the adjusted annual average salary by 2,087 hours ($27.53 = $42,246 x 1.36 ÷ 2,087 ). Data search qualifiers agency=DLMS, occupation=1802, GSEG=GS06.

[12] See note ($52.00 = $79,795 x 1.36 ÷ 2,087 ). Data search qualifiers agency=DLMS, occupation=1822, GSEG=GS12.

miner that affects the sampling requirements of 30 CFR parts 70, 71, and 90, the change must be reported in writing to the MSHA District Office within 3 working days after the status change has occurred in accordance with sections 70.212(a), 71.209(a), and 90.210. MSHA expects to review and process approximately 2,540 status change reports annually. It will take an Agency clerical employee earning $27.53 per hour, and average of 5 minutes to review and process each status change report.

Hour Burden

| | |
|---|---|
| 2,540 status change reports x 5 minutes | = 211 hrs. |

Hour Burden Cost

| | |
|---|---|
| 211 hrs. x $27.53 wage rate | = **$5,809** |

Section 71.300(a) and 71.301(e)

Under Section 71.300(a), within 15 calendar days after the termination date of a citation for a violation of the respirable dust standard, the operator must submit to MSHA for approval a written respirable dust control plan. Under section 71.301(e), the operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval. MSHA estimates that coal mine operators will submit 8 new and 4 revised dust control plans annually. It will take an Agency GS 12 health and safety specialist, earning $52.00 per hour, 45 minutes to review the average plan (new) and 30 minutes per revision, and an Agency clerical employee, earning $27.53 per hour, another 45 minutes to process a plan (new or revised).

Hour Burden

| | |
|---|---|
| 8 plans (new) x 45 minutes | = 6 hrs. |
| 4 plans (revised) x 30 minutes. | = 2 hrs. |
| 12 plans x 45 minutes | = 9 hrs. |
| Sub-total | = 17 hrs. |

Hour Burden Cost

| | |
|---|---|
| 8 hrs. x $52.00 wage rate | = $416 |
| 9 hrs. x $27.53 wage rate | = $248 |
| Sub-total | = **$664** |

Section 90.300(a) and 90.301(e)

Under Section 90.300(a), if an operator abates a violation of the respirable dust standard by reducing the respirable dust level in the position of the part 90 miner, the operator must submit a written respirable dust control plan. Under section 90.301(e), the operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval. MSHA anticipates the submission of 5 new and 1 revised respirable dust control plans annually. MSHA estimates that it takes an MSHA health supervisor, earning $52.00 per hour, 45 minutes to review the average new plan and 30 minutes per revision, and an Agency clerical person, earning $27.53

per hour, another 45 minutes to process a Part 90 miner dust control plan (new or revised).

Hour Burden

| | |
|---|---|
| 5 plans (new) x 45 minutes | = 4 hrs. |
| 1 plan (revised) x 30 minutes | = 1 hr. |
| 6 plans x 45 minutes | = 5 hrs. |
| Sub-total | = 10 hrs. |

Hour Burden Cost

| | |
|---|---|
| 5 hrs. x $52.00 wage rate | = $260 |
| 5 hrs. x $27.53 wage rate | = $138 |
| Sub-total | = **$398** |

| Summary Table for Answer to Question 14 | |
|---|---|
| **Detail** | **Costs** |
| Sample Processing & Data Transmission to MSIS for CMDPSU Samples | $199,884 |
| Sample Processing & Data Transmission to MSIS for CPDM Samples | $648,316 |
| Data Processing & Reporting Results to Mine Operators for CMDPSU & CPDM Samples | $54,212 |
| 70.201(f), 71.201(e),(f), 90.201(g) | $7,048 |
| 70.212(a), 71.209(a), 90.210 | $5,809 |
| 71.300(a), 71.301(e) | $664 |
| 90.300(a), 90.301(e) | $398 |
| **Total** | **$916,331** |

**15. Explain the reasons for any program changes or adjustments on the burden worksheet.**

EXPLANATION OF CHANGE TOTALS

*Respondents*: MSHA estimates that the number of respondents have increased from 800 to 1,035 underground and surface coal mine operators. The increase is due to provisions added to this collection from the approved package ICR Reference Number, 201210-1219-002. In addition, under respirable coal mine dust sampling requirements that were in the previous ICR 1219-0011, not all surface coal mine operators were required to sample. As a result, the previous ICR did not include all surface coal mine operators. However, this ICR package includes all surface coal mine operators because now they are required to sample for respirable coal mine dust. Thus, the number of responses, hours and costs has increased.

*Responses*: MSHA estimates that annual responses have increased from 69,135 to 1,704,366.

*Burden Hours*: MSHA estimates that annual burden hours have increased from 8,571 to 94,478.

*Costs*: MSHA estimates that annual burden costs have decreased from $44,065 to $40,967.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The transmittal and processing of samples, Dust Data Cards, and related information collection requirements under ICR 1219-0011 are not published. Results are reported to mine operators and the electronic database is used by MSHA to plan enforcement activities and evaluate programs. The database is also used by NIOSH to monitor effectiveness of dust controls, plan and undertake dust control research initiatives, and assess trends in disease prevention. The purpose of the respirable coal mine dust sampling program is to monitor compliance with mandatory limits to ensure healthful work environments.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

MSHA is seeking approval to not display the expiration date for OMB approval of this information collection on the Dust Data Card. MSHA has no direct control over the production or distribution of the cassettes and Dust Data Cards. Dust sampling

cassettes and the accompanying Dust Data Cards for CMDPSUs are produced and distributed by the CMDPSU manufacturer. Dust Data Cards associated with the CPDM are generated by the CPDM. The CPDM is produced and distributed by its manufacturer.

**18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

There are no certification exceptions identified with this information collection.

## B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ any statistical methods.

## FEDERAL MINE SAFETY & HEALTH ACT OF 1977 (MINE ACT)

### MANDATORY SAFETY AND HEALTH STANDARDS

SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

### INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 103. (h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

### RELEVANT STANDARDS RESPIRABLE COAL MINE DUST SAMPLING

§70.201 Sampling; general and technical requirements.

(a) Only an approved coal mine dust personal sampler unit (CMDPSU) shall be used to take bimonthly samples of the concentration of respirable coal mine dust from the designated occupation (DO) in each MMU as required by this part until January 31, 2016. On February 1, 2016, DOs in each MMU shall be sampled quarterly with an approved CPDM as required by this part and an approved CMDPSU shall not be used, unless notified by the Secretary to continue to use an approved CMDPSU to conduct quarterly sampling.

(b) Only an approved CMDPSU shall be used to take bimonthly samples of the concentration of respirable coal mine dust from each designated area (DA) as required by this part until January 31, 2016. On February 1, 2016:

(1) DAs associated with an MMU shall be redesignated as Other Designated Occupations (ODO). ODOs shall be sampled quarterly with an approved CPDM as required by this part and an approved CMDPSU shall not be used, unless notified by the Secretary to continue to use an approved CMDPSU to conduct quarterly sampling.

(2) DAs identified by the operator under §75.371(t) of this chapter shall be sampled quarterly with an approved CMDPSU as required by this part, unless the operator notifies the District Manager in writing that only an approved CPDM will be used for all DA sampling at the mine. The notification must be received at least 90 days before the beginning of the quarter in which CPDMs will be used to collect the DA samples.

(c) Sampling devices shall be worn or carried directly to the MMU or DA to be sampled and from the MMU or DA sampled and shall be operated portal-to-portal. Sampling devices shall remain with the occupation or DA being sampled and shall be operational during the entire shift, which includes the total time spent in the MMU or DA and while traveling to and from the mining section or area being sampled. If the work shift to be sampled is longer than 12 hours and the sampling device is:

(1) A CMDPSU, the operator shall switch-out the unit's sampling pump prior to the 13th-hour of operation.

(2) A CPDM, the operator shall switch-out the CPDM with a fully charged device prior to the 13th-hour of operation.

(d) If using a CMDPSU, one control filter shall be used for each shift of sampling. Each control filter shall:

(1) Have the same pre-weight date (noted on the dust data card) as the filters used for sampling;

(2) Remain plugged at all times;

(3) Be used for the same amount of time, and exposed to the same temperature and handling conditions as the filters used for sampling;

(4) Be kept with the exposed samples after sampling and in the same mailing container when transmitted to MSHA.

(e) Records showing the length of each production shift for each MMU shall be made and retained for at least six months and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners, and submitted to the District Manager when requested in writing.

(f) Upon request from the District Manager, the operator shall submit the date and time any respirable dust sampling required by this part will begin. This information shall be submitted at least 48 hours prior to the scheduled sampling.

(g) To establish a normal production shift, the operator shall record the amount of run-of-mine material produced by each MMU during each shift to determine the average production for the most recent 30 production shifts, or for all production shifts if fewer than 30 shifts of production data are available. Production records shall be retained for at least six months and shall be made

available for inspection by authorized representatives of the Secretary and the representative of miners.

(h) Operators using CPDMs shall provide training to all miners expected to wear a CPDM. The training shall be completed prior to a miner wearing a CPDM and then every 12 months thereafter. The training shall include:

(1) The importance of monitoring dust concentrations and properly wearing the CPDM.

(2) Explaining the basic features and capabilities of the CPDM;

(3) Discussing the various types of information displayed by the CPDM and how to access that information; and

(4) How to start and stop a short-term sample run during compliance sampling.

(i) An operator shall keep a record of the CPDM training at the mine site for 24 months after completion of the training. An operator may keep the record elsewhere if the record is immediately accessible from the mine site by electronic transmission. Upon request from an authorized representative of the Secretary, Secretary of HHS, or representative of miners, the operator shall promptly provide access to any such training records. The record shall include:

(1) The date of training;

(2) The names of miners trained; and

(3) The subjects included in the training.

(j) An anthracite mine using the full box, open breast, or slant breast mining method may use either a CPDM or a CMDPSU to conduct the required sampling. The mine operator shall notify the District Manager in writing of its decision to not use a CPDM.

(k) MSHA approval of the dust control portion of the operator's mine ventilation plan may be revoked based on samples taken by MSHA or in accordance with this part 70.

§71.201 Sampling; general and technical requirements.

(a) Each operator shall take representative samples of the concentration of respirable dust in the active workings of the mine as required by this part only with an approved CMDPSU. On February 1, 2016, the operator may use an approved CPDM if the operator notifies the District Manager in writing that only an approved CPDM will be used for all DWP sampling at the mine. The notification must be received at least 90 days before the beginning of the quarter in which CPDMs will be used to collect the DWP samples.

(b) Sampling devices shall be worn or carried directly to and from the DWP to be sampled. Sampling devices shall remain with the DWP and shall be operational during the entire shift,

which includes the total time spent in the DWP and while traveling to and from the DWP being sampled. If the work shift to be sampled is longer than 12 hours and the sampling device is:

(1) A CMDPSU, the operator shall switch-out the unit's sampling pump prior to the 13th-hour of operation.

(2) A CPDM, the operator shall switch-out the CPDM with a fully charged device prior to the 13th-hour of operation.

(c) If using a CMDPSU, one control filter shall be used for each shift of sampling. Each control filter shall:

(1) Have the same pre-weight data (noted on the dust data card) as the filters used for sampling;

(2) Remain plugged at all times;

(3) Be used for the same amount of time, and exposed to the same temperature and handling conditions as the filters used for sampling; and

(4) Be kept with the exposed samples after sampling and in the same mailing container when transmitted to MSHA.

(d) Records showing the length of each normal work shift for each DWP shall be made and retained for at least six months and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners, and submitted to the District Manager when requested in writing.

(e) Upon request from the District Manager, the operator shall submit the date and time any respirable dust sampling required by this part will begin. This information shall be submitted at least 48 hours prior to scheduled sampling.

(f) Upon written request by the operator, the District Manager may waive the rain restriction for a normal work shift as defined in §71.2 for a period not to exceed two months, if the District Manager determines that:

(1) The operator will not have reasonable opportunity to complete the respirable dust sampling required by this part without the waiver because of the frequency of rain; and

(2) The operator did not have reasonable opportunity to complete the respirable dust sampling required by this part prior to requesting the waiver.

(g) Operators using CPDMs shall provide training to all miners expected to wear the CPDM. The training shall be completed prior to a miner wearing the CPDM and then every 12 months thereafter. The training shall include:

(1) The importance of monitoring dust concentrations and properly wearing the CPDM;

(2) Explaining the basic features and capabilities of the CPDM;

(3) Discussing the various types of information displayed by the CPDM and how to access that information; and

(4) How to start and stop a short-term sample run during compliance sampling.

(h) An operator shall keep a record of the CPDM training at the mine site for 24 months after completion of the training. An operator may keep the record elsewhere if the record is immediately accessible from the mine site by electronic transmission. Upon request from an authorized representative of the Secretary, Secretary of HHS, or representative of miners, the operator shall promptly provide access to any such training records. The record shall include:

(1) The date of training;

(2) The names of miners trained; and

(3) The subjects included in the training.

§90.201 Sampling; general and technical requirements.

(a) An approved coal mine dust personal sampler unit (CMDPSU) shall be used to take samples of the concentration of respirable coal mine dust in the working environment of each part 90 miner as required by this part. On February 1, 2016, part 90 miners shall be sampled only with an approved continuous personal dust monitor (CPDM) as required by this part and an approved CMDPSU shall not be used, unless notified by the Secretary to continue to use an approved CMDPSU to conduct quarterly sampling.

(b) If using a CMDPSU, the sampling device shall be worn or carried to and from each part 90 miner. If using a CPDM, the sampling device shall be worn by the part 90 miner at all times. Approved sampling devices shall be operated portal-to-portal and shall remain operational during the part 90 miner's entire shift, which includes the time spent performing normal work duties and while traveling to and from the assigned work location. If the work shift to be sampled is longer than 12 hours and the sampling device is:

(1) A CMDPSU, the operator shall switch-out the unit's sampling pump prior to the 13th-hour of operation.

(2) A CPDM, the operator shall switch-out the CPDM with a fully charged device prior to the 13th-hour of operation.

(c) Unless otherwise directed by the District Manager, the respirable dust samples required under this part using a CMDPSU shall be taken by placing the sampling device as follows:

(1) On the part 90 miner;

(2) On the piece of equipment which the part 90 miner operates within 36 inches of the normal working position; or

(3) At a location that represents the maximum concentration of dust to which the part 90 miner is exposed.

(d) If using a CMDPSU, one control filter shall be used for each shift of sampling. Each control filter shall:

(1) Have the same pre-weight date (noted on the dust data card) as the filter used for sampling;

(2) Remain plugged at all times;

(3) Be used for the same amount of time, and exposed to the same temperature and handling conditions as the filter used for sampling; and

(4) Be kept with the exposed samples after sampling and in the same mailing container when transmitted to MSHA.

(e) The respirable dust samples required by this part and taken with a CMDPSU shall be collected while the part 90 miner is performing normal work duties.

(f) Records showing the length of each shift for each part 90 miner shall be made and retained for at least six months, and shall be made available for inspection by authorized representatives of the Secretary and submitted to the District Manager when requested in writing.

(g) Upon request from the District Manager, the operator shall submit the date and time any respirable dust sampling required by this part will begin. This information shall be submitted at least 48 hours prior to scheduled sampling.

(h) Operators using CPDMs shall provide training to all part 90 miners. The training shall be completed prior to a part 90 miner wearing a CPDM and then every 12 months thereafter. The training shall include:

(1) The importance of monitoring dust concentrations and properly wearing the CPDM;

(2) Explaining the basic features and capabilities of the CPDM;

(3) Discussing the various types of information displayed by the CPDM and how to access that information; and

(4) How to start and stop a short-term sample run during compliance sampling.

(i) An operator shall keep a record of the CPDM training at the mine site for 24 months after completion of the training. An operator may keep the record elsewhere if the record is immediately accessible from the mine site by electronic transmission. Upon request from an authorized representative of the Secretary or Secretary of HHS, the operator shall promptly provide access to any such training records. The record shall include:

(1) The date of training;

(2) The names of miners trained; and

(3) The subjects included in the training.

(j) An anthracite mine using the full box, open breast, or slant breast mining method may use either a CPDM or a CMDPSU to conduct the required sampling. The mine operator shall notify the District Manager in writing of its decision to not use a CPDM.

§70.205 Approved sampling devices; operation; air flowrate**.**

(a) Approved sampling devices shall be operated at the flowrate of 2.0 L/min if using a CMDPSU; at 2.2 L/min if using a CPDM; or at a different flowrate recommended by the manufacturer.

(b) If using a CMDPSU, each approved sampling device shall be examined each shift by a person certified in sampling during:

(1) The second hour after being put into operation to assure it is in the proper location, operating properly, and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments shall be made by the certified person. This examination is not required if the sampling device is being operated in an anthracite coal mine using the full box, open breast, or slant breast mining method.

(2) The last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample shall be transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, shall be noted on the back of the dust data card.
(c) If using a CPDM, the person certified in sampling shall monitor the dust concentrations and the sampling status conditions being reported by the sampling device at mid-shift or more frequently as specified in the approved mine ventilation plan to assure: the sampling device is in the proper location and operating properly; and the work environment of the occupation or DA being sampled remains in compliance with the applicable standard at the end of the shift. This monitoring is not required if the sampling device is being operated in an anthracite coal mine using the full box, open breast, or slant breast mining method.

§71.205 Approved sampling devices; operation; air flowrate**.**

(a) Approved sampling devices shall be operated at the flowrate of 2.0 L/min, if using a CMDPSU; at 2.2 L/min, if using a CPDM; or at a different flowrate recommended by the manufacturer.

(b) If using a CMDPSU, each sampling device shall be examined each shift by a person certified in sampling during:

(1) The second hour after being put into operation to assure it is in the proper location, operating properly, and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments shall be made by the certified person.

(2) The last hour of operation to assure that it is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample shall be transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, shall be noted on the back of the dust data card.

(c) If using a CPDM, the person certified in sampling shall monitor the dust concentrations and the sampling status conditions being reported by the sampling device at mid-shift or more frequently as specified in the approved respirable dust control plan, if applicable, to assure: the sampling device is in the proper location and operating properly; and the work environment of the occupation being sampled remains in compliance with the applicable standard at the end of the shift.

§90.205 Approved sampling devices; operation; air flowrate.

(a) Approved sampling devices shall be operated at the flowrate of 2.0 L/min if using a CMDPSU; at 2.2 L/min if using a CPDM; or at a different flowrate recommended by the manufacturer.

(b) If using a CMDPSU, each approved sampling device shall be examined each shift, by a person certified in sampling during:

(1) The second hour after being put into operation to assure it is in the proper location, operating properly, and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments shall be made by the certified person. This examination is not required if the sampling device is being operated in an anthracite coal mine using the full box, open breast, or slant breast mining method.

(2) The last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample shall be

transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, shall be noted on the back of the dust data card.

(c) If using a CPDM, the person certified in sampling shall monitor the dust concentrations and the sampling status conditions being reported by the sampling device at mid-shift or more frequently as specified in the approved respirable dust control plan, if applicable, to assure: The sampling device is in the proper location and operating properly; and the work environment of the part 90 miner being sampled remains in compliance with the applicable standard at the end of the shift. This monitoring is not required if the sampling device is being operated in an anthracite coal mine using the full box, open breast, or slant breast mining method.

§70.210 Respirable dust samples; transmission by operator.

(a) If using a CMDPSU, the operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of this part, including control filters, in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochrans Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

(b) The operator shall not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used to fulfill the requirements of this part.

(c) A person certified in sampling shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person who actually performed the required examinations under 70.205(b) of this part during the sampling shift and shall include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may be voided by MSHA.

(d) All respirable dust samples collected by the operator shall be considered taken to fulfill the sampling requirements of part 70, 71, or 90 of this title, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by part 70, 71, or 90 of this title.

(e) Respirable dust samples received by MSHA in excess of those required by this part shall be considered invalid samples.

(f) If using a CPDM, the person certified in sampling shall (1) validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling; and (2) not tamper with the CPDM or its components in any way

before, during, or after it is used to fulfill the requirements of this part, or alter any sample data files. All CPDM data files transmitted electronically to MSHA shall be maintained by the operator for at least 12 months.

§71.207 Respirable dust samples; transmission by operator.

(a) If using a CMDPSU, the operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of this part, including control filters, in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochrans Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

(b) The operator shall not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used to fulfill the requirements of this part.

(c) A person certified in sampling shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person who actually performed the required examinations under 71.205(b) of this part during the sampling shift and shall include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may be voided by MSHA.

(d) All respirable dust samples collected by the operator shall be considered taken to fulfill the sampling requirements of part 70, 71, or 90 of this title, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by part 70, 71, or 90 of this title.

(e) Respirable dust samples received by MSHA in excess of those required by this part shall be considered invalid samples.

(f) If using a CPDM, the person certified in sampling shall (1) validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling each DWP; and (2) not tamper with the CPDM or its components in any way before, during, or after it is used to fulfill the requirements of this part, or alter any sample data files. All CPDM data files transmitted electronically to MSHA shall be maintained by the operator for at least 12 months.

§90.208 Respirable dust samples; transmission by operator.

(a) If using a CMDPSU, the operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of this part, including control filters, in

containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochrans Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

(b) The operator shall not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used to fulfill the requirements of this part.

(c) A person certified in sampling shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person who actually performed the required examinations under 90.205(b) of this part during the sampling shift and shall include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may be voided by MSHA.

(d) All respirable dust samples collected by the operator shall be considered taken to fulfill the sampling requirements of part 70, 71, or 90 of this title, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by part 70, 71, or 90 of this title.

(e) Respirable dust samples received by MSHA in excess of those required by this part shall be considered invalid samples.

(f) If using a CPDM, the person certified in sampling shall (1) validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling each part 90 miner; and (2) not tamper with the CPDM or its components in any way before, during, or after it is used to fulfill the requirements of this part, or alter any data files. All CPDM data files transmitted electronically to MSHA shall be maintained by the operator for at least 12 months.

§70.208 Quarterly sampling; mechanized mining units.

On February 1, 2016:

(a) The operator shall sample each calendar quarter:

(1) The designated occupation (DO) in each MMU on consecutive normal production shifts until 15 valid representative samples are taken. The District Manager may require additional groups of 15 valid representative samples when information indicates the operator has not followed the approved ventilation plan for any MMU.

(2) Each other designated occupation (ODO) specified in paragraphs (b)(1) through (b)(10) of this section in each MMU or specified by the District Manager and identified in the approved

mine ventilation plan on consecutive normal production shifts until 15 valid representative samples are taken. Sampling of each ODO type shall begin after fulfilling the sampling requirements of paragraph (a)(1) of this section. When required to sample more than one ODO type, each ODO type must be sampled over separate time periods during the calendar quarter.

(3) The quarterly periods are:

January 1-March 31

April 1-June 30

July 1-September 30

October 1-December 31.

(b) Unless otherwise directed by the District Manager, the approved sampling device shall be worn by the miner assigned to perform the duties of the DO or ODO specified in paragraphs (b)(1) through (b)(10) of this section or by the District Manager for each type of MMU.

(1) Conventional section using cutting machine. DO—The cutting machine operator;

(2) Conventional section blasting off the solid. DO—The loading machine operator;

(3) Continuous mining section other than auger-type. DO—The continuous mining (CM) machine operator or mobile bridge operator when using continuous haulage; ODO—The roof bolting machine operator who works nearest the working face on the return air side of the continuous mining machine; the face haulage operators on MMUs using blowing face ventilation; the face haulage operators on MMUs ventilated by split intake air (“fishtail ventilation”) as part of a super-section; and face haulage operators where two continuous mining machines are operated on an MMU.

(4) Continuous mining section using auger-type machine. DO—The jacksetter who works nearest the working face on the return air side of the continuous mining machine;

(5) Scoop section using cutting machine. DO—The cutting machine operator;

(6) Scoop section, blasting off the solid. DO—The coal drill operator;

(7) Longwall section. DO—The longwall operator working on the tailgate side of the longwall mining machine; ODO—The jacksetter who works nearest the return air side of the longwall working face, and the mechanic;

(8) Hand loading section with a cutting machine. DO—The cutting machine operator;

(9) Hand loading section blasting off the solid. DO—The hand loader exposed to the greatest dust concentration; and

(10) Anthracite mine sections. DO—The hand loader exposed to the greatest dust concentration.

(c) When the respirable dust standard is changed in accordance with §70.101, the new applicable standard shall become effective 7 calendar days after the date of notification of the change by MSHA.

(d) If a normal production shift is not achieved, the DO or ODO sample for that shift may be voided by MSHA. However, any sample, regardless of production, that exceeds the applicable standard by at least 0.1 mg/m3 shall be used in the determination of the equivalent concentration for that occupation.

(e) When a valid representative sample taken in accordance with this section meets or exceeds the ECV in Table 70-1 that corresponds to the applicable standard and particular sampling device used, the operator shall:

(1) Make approved respiratory equipment available to affected miners in accordance with §72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable dust to at or below the applicable respirable dust standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(f) Noncompliance with the applicable standard is demonstrated during the sampling period when:

(1) Three or more valid representative samples meet or exceed the ECV in Table 70-1 that corresponds to the applicable standard and the particular sampling device used; or

(2) The average for all valid representative samples meets or exceeds the ECV in Table 70-2 that corresponds to the applicable standard and the particular sampling device used.

(g)(1) Unless otherwise directed by the District Manager, upon issuance of a citation for a violation of the applicable standard involving a DO in an MMU, paragraph (a)(1) shall not apply to the DO in that MMU until the violation is abated and the citation is terminated in accordance with paragraphs (h) and (i) of this section.

(2) Unless otherwise directed by the District Manager, upon issuance of a citation for a violation of the applicable standard involving a type of ODO in an MMU, paragraph (a)(2) shall not apply

to that ODO type in that MMU until the violation is abated and the citation is terminated in accordance with paragraphs (h) and (i) of this section.

(h) Upon issuance of a citation for violation of the applicable standard, the operator shall take the following actions sequentially:

(1) Make approved respiratory equipment available to affected miners in accordance with §72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(4) Begin sampling, within 8 calendar days after the date the citation is issued, the environment of the affected occupation in the MMU on consecutive normal production shifts until five valid representative samples are taken.

(i) A citation for violation of the applicable standard shall be terminated by MSHA when:

(1) Each of the five valid representative samples is at or below the applicable standard; and

(2) The operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU in the citation and the changes have been approved by the District Manager. The revised parameters shall reflect the control measures used by the operator to abate the violation.

§70.209 Quarterly sampling; designated areas.

On February 1, 2016:

(a) The operator shall sample quarterly each designated area (DA) on consecutive production shifts until five valid representative samples are taken. The quarterly periods are:

January 1-March 31

April 1-June 30

July 1-September 30

October 1-December 31.

(b) When the respirable dust standard is changed in accordance with §70.101, the new applicable standard shall become effective 7 calendar days after the date of the notification of the change by MSHA.

(c) When a valid representative sample taken in accordance with this section meets or exceeds the ECV in Table 70-1 that corresponds to the applicable standard and particular sampling device used, the operator shall:

(1) Make approved respiratory equipment available to affected miners in accordance with §72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable dust to at or below the applicable respirable dust standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(d) Noncompliance with the applicable standard is demonstrated during the sampling period when:

(1) Two or more valid representative samples meet or exceed the ECV in Table 70-1 that corresponds to the applicable standard and the particular sampling device used; or

(2) The average for all valid representative samples meets or exceeds the ECV in Table 70-2 that corresponds to the applicable standard and particular sampling device used.

(e) Unless otherwise directed by the District Manager, upon issuance of a citation for a violation of the applicable standard, paragraph (a) of this section shall not apply to that DA until the violation is abated and the citation is terminated in accordance with paragraphs (f) and (g) of this section.

(f) Upon issuance of a citation for a violation of the applicable standard, the operator shall take the following actions sequentially:

(1) Make approved respiratory equipment available to affected miners in accordance with §72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(4) Begin sampling, within 8 calendar days after the date the citation is issued, the environment of the affected DA on consecutive normal production shifts until five valid representative samples are taken.

(g) A citation for a violation of the applicable standard shall be terminated by MSHA when:

(1) Each of the five valid representative samples is at or below the applicable standard; and

(2) The operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the DA in the citation, and the changes have been approved by the District Manager. The revised parameters shall reflect the control measures used by the operator to abate the violation.

§71.206 Quarterly sampling; designated work positions.

(a) Each operator shall take one valid representative sample from the DWP during each quarterly period. The quarterly periods are:

January 1-March 31

April 1-June 30

July 1-September 30

October 1-December 31.

(b) When the respirable dust standard is changed in accordance with §71.101, the new applicable standard shall become effective 7 calendar days after the date of the notification of the change by MSHA.

(c) Designated work position samples shall be collected at locations to measure respirable dust generation sources in the active workings. The specific work positions at each mine where DWP samples shall be collected include:

(1) Each highwall drill operator (MSHA occupation code 384);

(2) Bulldozer operators (MSHA occupation code 368); and

(3) Other work positions designated by the District Manager for sampling in accordance with §71.206(m).

(d) Operators with multiple work positions specified in paragraph (c)(2) and (c)(3) of this section shall sample the DWP exposed to the greatest respirable dust concentration in each work position performing the same activity or task at the same location at the mine and exposed to the same dust generation source. Each operator shall provide the District Manager with a list identifying the specific work positions where DWP samples will be collected for:

(1) Active mines—by October 1, 2014.

(2) New mines—Within 30 calendar days of mine opening.

(3) DWPs with a change in operational status that increases or reduces the number of active DWPs—within 7 calendar days of the change in status.

(e) Each DWP sample shall be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample shall be transmitted to MSHA with a notation by the person certified in sampling on the back of the dust data card stating that the sample was not taken on a normal work shift. When a normal work shift is not achieved, the sample for that shift may be voided by MSHA. However, any sample, regardless of whether a normal work shift was achieved, that exceeds the applicable standard by at least 0.1 $mg/m^3$ shall be used in the determination of the equivalent concentration for that occupation.

(f) Unless otherwise directed by the District Manager, DWP samples shall be taken by placing the sampling device as follows:

(1) Equipment operator: On the equipment operator or on the equipment within 36 inches of the operator's normal working position.

(2) Non-equipment operators: On the miner assigned to the DWP or at a location that represents the maximum concentration of dust to which the miner is exposed.

(g) Upon notification from MSHA that any valid representative sample taken from a DWP to meet the requirements of paragraph (a) of this section exceeds the applicable standard, the operator shall, within 15 calendar days of notification, sample that DWP each normal work shift until five valid representative samples are taken. The operator shall begin sampling on the first normal work shift following receipt of notification.

(h) When a valid representative sample taken in accordance with this section meets or exceeds the excessive concentration value (ECV) in Table 71-1 that corresponds to the applicable standard and particular sampling device used, the operator shall:

(1) Make approved respiratory equipment available to affected miners in accordance with §72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(i) Noncompliance with the applicable standard is demonstrated during the sampling period when:

(1) Two or more valid representative samples meet or exceed the ECV in Table 71-1 that corresponds to the applicable standard and the particular sampling device used; or

(2) The average for all valid representative samples meets or exceeds the ECV in Table 71-2 that corresponds to the applicable standard and the particular sampling device used.

(j) Unless otherwise directed by the District Manager, upon issuance of a citation for a violation of the applicable standard, paragraph (a) of this section shall not apply to that DWP until the violation is abated and the citation is terminated in accordance with paragraphs (k) and (l) of this section.

(k) Upon issuance of a citation for violation of the applicable standard, the operator shall take the following actions sequentially:

(1) Make approved respiratory equipment available to affected miners in accordance with §72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(4) Begin sampling, within 8 calendar days after the date the citation is issued, the environment of the affected DWP on consecutive normal work shifts until five valid representative samples are taken.

(l) A citation for violation of the applicable standard shall be terminated by MSHA when the equivalent concentration of each of the five valid representative samples is at or below the applicable standard.

Table 71-1—Excessive Concentration Values (ECV) Based on Single, Full-Shift CMDPSU/CPDM Concentration Measurements

| Applicable standard (mg/m3) | ECV (mg/m3) | |
|---|---|---|
| | CMDPSU | CPDM |
| 2.0 | 2.33 | 2.26 |
| 1.9 | 2.22 | 2.15 |
| 1.8 | 2.12 | 2.04 |
| 1.7 | 2.01 | 1.92 |
| 1.6 | 1.90 | 1.81 |
| 1.5 | 1.79 | 1.70 |
| 1.4 | 1.69 | 1.58 |
| 1.3 | 1.59 | 1.47 |
| 1.2 | 1.47 | 1.36 |
| 1.1 | 1.37 | 1.25 |
| 1.0 | 1.26 | 1.13 |
| 0.9 | 1.16 | 1.02 |
| 0.8 | 1.05 | 0.91 |
| 0.7 | 0.95 | 0.79 |
| 0.6 | 0.85 | 0.68 |
| 0.5 | 0.74 | 0.57 |
| 0.4 | 0.65 | 0.46 |
| 0.3 | 0.54 | 0.34 |
| 0.2 | 0.44 | 0.23 |

Table 71-2—Excessive Concentration Values (ECV) Based on the Average of 5 Full-Shift CMDPSU/CPDM Concentration Measurements

| Applicable standard (mg/m3) | ECV (mg/m3) | |
|---|---|---|
| | CMDPSU | CPDM |
| 2.0 | 2.15 | 2.12 |
| 1.9 | 2.05 | 2.01 |
| 1.8 | 1.94 | 1.91 |
| 1.7 | 1.84 | 1.80 |
| 1.6 | 1.74 | 1.70 |
| 1.5 | 1.63 | 1.59 |
| 1.4 | 1.53 | 1.49 |
| 1.3 | 1.43 | 1.38 |
| 1.2 | 1.33 | 1.27 |
| 1.1 | 1.22 | 1.17 |
| 1.0 | 1.12 | 1.06 |
| 0.9 | 1.02 | 0.96 |
| 0.8 | 0.92 | 0.85 |
| 0.7 | 0.81 | 0.75 |
| 0.6 | 0.71 | 0.64 |
| 0.5 | 0.61 | 0.53 |
| 0.4 | 0.51 | 0.43 |
| 0.3 | 0.41 | 0.32 |
| 0.2 | 0.31 | 0.22 |

(m) The District Manager may designate for sampling under this section additional work positions at a surface coal mine and at a surface work area of an underground coal mine where a concentration of respirable dust exceeding 50 percent of the standard in effect at the time the

sample is taken, or a concentration of respirable dust exceeding 50 percent of the standard established in accordance with §71.101, has been measured by one or more MSHA valid representative samples.

(n) The District Manager may withdraw from sampling any DWP designated for sampling under paragraph (m) of this section upon finding that the operator is able to maintain continuing compliance with the applicable standard. This finding shall be based on the results of MSHA and operator valid representative samples taken during at least a 12-month period.

§90.207 Quarterly sampling.

(a) Each operator shall take five valid representative samples every calendar quarter from the environment of each part 90 miner while performing normal work duties. Part 90 miner samples shall be collected on consecutive work days. The quarterly periods are:

January 1-March 31

April 1-June 30

July 1-September 30

October 1-December 31.

(b) When the respirable dust standard is changed in accordance with §90.101, the new applicable standard shall become effective 7 calendar days after the date of notification of the change by MSHA.

(c) When a valid representative sample taken in accordance with this section meets or exceeds the excessive concentration value (ECV) in Table 90-1 that corresponds to the applicable standard and particular sampling device used, the operator shall:

(1) Make approved respiratory equipment available to affected miners in accordance with §72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the part 90 miner.

(d) Noncompliance with the applicable standard is demonstrated during the sampling period when:

(1) Two or more valid representative samples meet or exceed the ECV in Table 90-1 that corresponds to the applicable standard and the particular sampling device used; or

(2) The average for all valid representative samples meets or exceeds the ECV in Table 90-2 that corresponds to the applicable standard and the particular sampling device used.

(e) Unless otherwise directed by the District Manager, upon issuance of a citation for a violation of the applicable standard, paragraph (a) of this section shall not apply to that part 90 miner until the violation is abated and the citation is terminated in accordance with paragraphs (f) and (g) of this section.

(f) Upon issuance of a citation for a violation of the applicable standard, the operator shall take the following actions sequentially:

(1) Make approved respiratory equipment available to the affected part 90 miner in accordance with §72.700 of this chapter.

(2) Immediately take corrective action to lower the concentration of respirable dust to at or below the applicable standard. If the corrective action involves:

(i) Reducing the respirable dust levels in the work position of the part 90 miner identified in the citation, the operator shall implement the proposed corrective actions and begin sampling the affected miner within 8 calendar days after the date the citation is issued, until five valid representative samples are taken.

(ii) Transferring the part 90 miner to another work position at the mine to meet the applicable standard, the operator shall comply with §90.102 of this part and then sample the affected miner in accordance with §90.206(a) of this part.

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the part 90 miner.

(g) A citation for a violation of the applicable standard shall be terminated by MSHA when the equivalent concentration of each of the five valid representative samples is at or below the applicable standard.

Table 90-1—Excessive Concentration Values (ECV) Based on Single, Full-Shift CMDPSU/CPDM Concentration Measurements

| Applicable standard (mg/m3) | ECV (mg/m3) | |
|---|---|---|
| | CMDPSU | CPDM |
| 1.0 | 1.26 | 1.13 |
| 0.9 | 1.16 | 1.02 |
| 0.8 | 1.05 | 0.91 |
| 0.7 | 0.95 | 0.79 |
| 0.6 | 0.85 | 0.68 |
| 0.5 | 0.74 | 0.57 |
| 0.4 | 0.65 | 0.46 |
| 0.3 | 0.54 | 0.34 |
| 0.2 | 0.44 | 0.23 |

Table 90-2—Excessive Concentration Values (ECV) Based on the Average of 5 Full-Shift CMDPSU/CPDM Concentration Measurements

| Applicable standard (mg/m3) | ECV (mg/m3) | |
|---|---|---|
| | CMDPSU | CPDM |
| 1.0 | 1.12 | 1.06 |
| 0.9 | 1.02 | 0.96 |
| 0.8 | 0.92 | 0.85 |

| | | |
|---|---|---|
| 0.7 | 0.81 | 0.75 |
| 0.6 | 0.71 | 0.64 |
| 0.5 | 0.61 | 0.53 |
| 0.4 | 0.51 | 0.43 |
| 0.3 | 0.41 | 0.32 |
| 0.2 | 0.31 | 0.22 |

§70.211 Respirable dust samples; report to operator; posting.

(a) MSHA shall provide the operator, as soon as practicable, a report with the following data on respirable dust samples submitted or whose results were transmitted electronically, if using a CPDM, in accordance with this part:

(1) The mine identification number;

(2) The locations within the mine from which the samples were taken;

(3) The concentration of respirable dust, expressed as an equivalent concentration for each valid sample;

(4) The average equivalent concentration of respirable dust for all valid samples;

(5) The occupation code, where applicable; and

(6) The reason for voiding any sample.

(b) Upon receipt, the operator shall post this data for at least 31 days on the mine bulletin board.

(c) If using a CPDM, the person certified in sampling shall, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of the sample run. This hard-copy record shall include the data entered when the sample run was first programmed, and the following:

(1) The mine identification number;

(2) The locations within the mine from which the samples were taken;

(3) The concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample;

(4) The sampling status conditions encountered for each sample; and

(5) The shift length.

(d) The information required by paragraph (c) of this section shall remain posted until receipt of the MSHA report covering these respirable dust samples.

§71.208 Respirable dust samples; report to operator; posting.

(a) MSHA shall provide the operator, as soon as practicable, a report with the following data on respirable dust samples submitted or whose results were transmitted electronically, if using a CPDM, in accordance with this part:

(1) The mine identification number;

(2) The DWP at the mine from which the samples were taken;

(3) The concentration of respirable dust, expressed as an equivalent concentration for each valid sample;

(4) The average equivalent concentration of respirable dust for all valid samples;

(5) The occupation code; and

(6) The reason for voiding any sample.

(b) Upon receipt, the operator shall post this data for at least 31 days on the mine bulletin board.

(c) If using a CPDM, the person certified in sampling shall, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of each sample run. This hard-copy record shall include the data entered when the sample run was first programmed, and the following:

(1) The mine identification number;

(2) The DWP at the mine from which the samples were taken;

(3) The concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample;

(4) The sampling status conditions encountered for each sample; and

(5) The shift length.

(d) The information required by paragraph (c) of this section shall remain posted until receipt of the MSHA report covering these respirable dust samples.

§90.209 Respirable dust samples; report to operator.

(a) MSHA shall provide the operator, as soon as practicable, a report with the following data on respirable dust samples submitted or whose results were transmitted electronically, if using a CPDM, in accordance with this part:

(1) The mine identification number;

(2) The locations within the mine from which the samples were taken;

(3) The concentration of respirable dust, expressed as an equivalent concentration for each valid sample;

(4) The average equivalent concentration of respirable dust for all valid samples;

(5) The occupation code;

(6) The reason for voiding any sample; and

(7) The part 90 miner's MSHA Individual Identification Number (MIIN).

(b) Upon receipt, the operator shall provide a copy of this report to the part 90 miner. The operator shall not post the original or a copy of this report on the mine bulletin board.

(c) If using a CPDM, the person certified in sampling shall print, sign, and provide to each part 90 miner, a paper record (Dust Data Card) of the sample run within one hour after the start of the part 90 miner's next work shift. This hard-copy record shall include the data entered when the sample run was first programmed, and the following:

(1) The mine identification number;

(2) The location within the mine from which the sample was taken;

(3) The concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample;

(4) The sampling status conditions encountered for each sample;

(5) The shift length; and

(6) The part 90 miner's MSHA Individual Identification Number (MIIN).

(d) The operator shall not post data on respirable dust samples for part 90 miners on the mine bulletin board.

§70.212 Status change reports.

(a) If there is a change in operational status that affects the respirable dust sampling requirements of this part, the operator shall report the change in operational status of the mine, mechanized mining unit, or designated area to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes shall be reported in writing or electronically within 3 working days after the status change has occurred.

(b) Each specific operational status is defined as follows:

(1) Underground mine:

(i) *Producing*—has at least one MMU unit producing material.

(ii) *Nonproducing*—no material is being produced.

(iii) *Abandoned*—the work of all miners has been terminated and production activity has ceased.

(2) MMU:

(i) *Producing*—producing material from a working section.

(ii) *Nonproducing*—temporarily ceased production of material.

(iii) *Abandoned*—permanently ceased production of material.

(3) DA:

(i) *Producing*—activity is occurring.

(ii) *Nonproducing*—activity has ceased.

(iii) *Abandoned*—the dust generating source has been withdrawn and activity has ceased.

§71.209 Status change reports.

(a) If there is a change in operational status that affects the respirable dust sampling requirements of this part, the operator shall report the change in operational status of the mine or DWP to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes shall be reported in writing or electronically within 3 working days after the status change has occurred.

(b) Each specific operational status is defined as follows:

(1) Underground mine:

(i) Producing—has at least one mechanized mining unit producing material.

(ii) Nonproducing—no material is being produced.

(iii) Abandoned—the work of all miners has been terminated and production activity has ceased.

(2) Surface mine:

(i) Producing—normal activity is occurring and coal is being produced or processed or other material or equipment is being handled or moved.

(ii) Nonproducing—normal activity is not occurring and coal is not being produced or processed, and other material or equipment is not being handled or moved.
(iii) Abandoned—the work of all miners has been terminated and all activity has ceased.
(3) DWP:
(i) Producing—normal activity is occurring.
(ii) Nonproducing—normal activity is not occurring.
(iii) Abandoned—the dust generating source has been withdrawn and activity has ceased.

§90.210 Status change reports.
If there is a change in the status of a part 90 miner (such as entering a terminated, injured, or ill status, or returning to work), the operator shall report the change in the status of the part 90 miner to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes shall be reported in writing or by electronic means within 3 working days after the status change has occurred.

§71.300 Respirable dust control plan; filing requirements.

(a) Within 15 calendar days after the termination date of a citation for violation of the applicable standard, the operator shall submit to the District Manager for approval a written respirable dust control plan applicable to the DWP identified in the citation. The respirable dust control plan and revisions thereof shall be suitable to the conditions and the mining system of the coal mine and shall be adequate to continuously maintain respirable dust to at or below the applicable standard at the DWP identified in the citation.

(1) The mine operator shall notify the representative of miners at least 5 days prior to submission of a respirable dust control plan and any revision to a dust control plan. If requested, the mine operator shall provide a copy to the representative of miners at the time of notification;

(2) A copy of the proposed respirable dust control plan, and a copy of any proposed revision, submitted for approval shall be made available for inspection by the representative of miners; and

(3) A copy of the proposed respirable dust control plan, and a copy of any proposed revision, submitted for approval shall be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision shall remain posted until it is approved, withdrawn, or denied.

(4) Following receipt of the proposed plan or proposed revision, the representative of miners may submit timely comments to the District Manager, in writing, for consideration during the review process. Upon request, a copy of these comments shall be provided to the operator by the District Manager.

(b) Each respirable dust control plan shall include at least the following:

(1) The mine identification number and DWP number assigned by MSHA, the operator's name, mine name, mine address, and mine telephone number and the name, address, and telephone number of the principal officer in charge of health and safety at the mine;

(2) The specific DWP at the mine to which the plan applies;

(3) A detailed description of the specific respirable dust control measures used to abate the violation of the respirable dust standard; and

(4) A detailed description of how each of the respirable dust control measures described in response to paragraph (b)(3) of this section will continue to be used by the operator, including at least the specific time, place and manner the control measures will be used.

§90.300 Respirable dust control plan; filing requirements.

(a) If an operator abates a violation of the applicable standard by reducing the respirable dust level in the position of the part 90 miner, the operator shall submit to the District Manager for approval a written respirable dust control plan for the part 90 miner in the position identified in the citation within 15 calendar days after the citation is terminated. The respirable dust control plan and revisions thereof shall be suitable to the conditions and the mining system of the coal mine and shall be adequate to continuously maintain respirable dust to at or below the applicable standard for that part 90 miner.

(b) Each respirable dust control plan shall include at least the following:

(1) The mine identification number assigned by MSHA, the operator's name, mine name, mine address, and mine telephone number and the name, address and telephone number of the principal officer in charge of health and safety at the mine;

(2) The name and MSHA Individual Identification Number of the part 90 miner and the position at the mine to which the plan applies;

(3) A detailed description of the specific respirable dust control measures used to continuously maintain concentrations of respirable coal mine dust at or below the applicable standard; and

(4) A detailed description of how each of the respirable dust control measures described in response to paragraph (b)(3) of this section will continue to be used by the operator, including at least the specific time, place, and manner the control measures will be used.

§71.301 Respirable dust control plan; approval by District Manager and posting.

(a) The District Manager will approve respirable dust control plans on a mine-by-mine basis. When approving respirable dust control plans, the District Manager shall consider whether:

(1) The respirable dust control measures would be likely to maintain concentrations of respirable coal mine dust at or below the applicable standard; and

(2) The operator's compliance with all provisions of the respirable dust control plan could be objectively ascertained by MSHA.

(b) MSHA may take respirable dust samples to determine whether the respirable dust control measures in the operator's plan effectively maintain concentrations of respirable coal mine dust at or below the applicable standard.

(c) The operator shall comply with all provisions of each respirable dust control plan upon notice from MSHA that the respirable dust control plan is approved.

(d) The approved respirable dust control plan and any revisions shall be:

(1) Provided upon request to the representative of miners by the operator following notification of approval;

(2) Made available for inspection by the representative of miners; and

(3) Posted on the mine bulletin board within 1 working day following notification of approval, and shall remain posted for the period that the plan is in effect.

(e) The operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

§90.301 Respirable dust control plan; approval by District Manager; copy to part 90 miner.

(a) The District Manager will approve respirable dust control plans on a mine-by-mine basis. When approving respirable dust control plans, the District Manager shall consider whether:

(1) The respirable dust control measures would be likely to maintain concentrations of respirable coal mine dust at or below the applicable standard; and

(2) The operator's compliance with all provisions of the respirable dust control plan could be objectively ascertained by MSHA.

(b) MSHA may take respirable dust samples to determine whether the respirable dust control measures in the operator's plan effectively maintain concentrations of respirable coal mine dust at or below the applicable standard.

(c) The operator shall comply with all provisions of each respirable dust control plan upon notice from MSHA that the respirable dust control plan is approved.
(d) The operator shall provide a copy of the current respirable dust control plan required under this part to the part 90 miner. The operator shall not post the original or a copy of the plan on the mine bulletin board.

(e) The operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

§75.370 Mine ventilation plan; submission and approval.

(a) (1) The operator shall develop and follow a ventilation plan approved by the district manager. The plan shall be designed to control methane and respirable dust and shall be suitable to the conditions and mining system at the mine. The ventilation plan shall consist of two parts, the plan content as prescribed in §75.371 and the ventilation map with information as prescribed in §75.372. Only that portion of the map which contains information required under §75.371 will be subject to approval by the district manager.

(2) The proposed ventilation plan and any revision to the plan shall be submitted in writing to the district manager. When revisions to a ventilation plan are proposed, only the revised pages, maps, or sketches of the plan need to be submitted. When required in writing by the district manager, the operator shall submit a fully revised plan by consolidating the plan and all revisions in an orderly manner and by deleting all outdated material.

(3) (i) The mine operator shall notify the representative of miners at least 5 days prior to submission of a mine ventilation plan and any revision to a mine ventilation plan. If requested, the mine operator shall provide a copy to the representative of miners at the time of notification. In the event of a situation requiring immediate action on a plan revision, notification of the revision shall be given, and if requested, a copy of the revision shall be provided, to the representative of miners by the operator at the time of submittal;

(ii) A copy of the proposed ventilation plan, and a copy of any proposed revision, submitted for approval shall be made available for inspection by the representative of miners; and

(iii) A copy of the proposed ventilation plan, and a copy of any proposed revision, submitted for approval shall be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision shall remain posted until it is approved, withdrawn or denied.

(b) Following receipt of the proposed plan or proposed revision, the representative of miners may submit timely comments to the district manager, in writing, for consideration during the review process. A copy of these comments shall also be provided to the operator by the district manager upon request.

(c) (1) The district manager will notify the operator in writing of the approval or denial of approval of a proposed ventilation plan or proposed revision. A copy of this notification will be sent to the representative of miners by the district manager.

(2) If the district manager denies approval of a proposed plan or revision, the deficiencies of the plan or revision shall be specified in writing and the operator will be provided an opportunity to discuss the deficiencies with the district manager.

(d) No proposed ventilation plan shall be implemented before it is approved by the district manager. Any intentional change to the ventilation system that alters the main air current or any split of the main air current in a manner that could materially affect the safety and health of the miners, or any change to the information required in §75.371 shall be submitted to and approved by the district manager before implementation.

(e) Before implementing an approved ventilation plan or a revision to a ventilation plan, persons affected by the revision shall be instructed by the operator in its provisions.

(f) The approved ventilation plan and any revisions shall be—

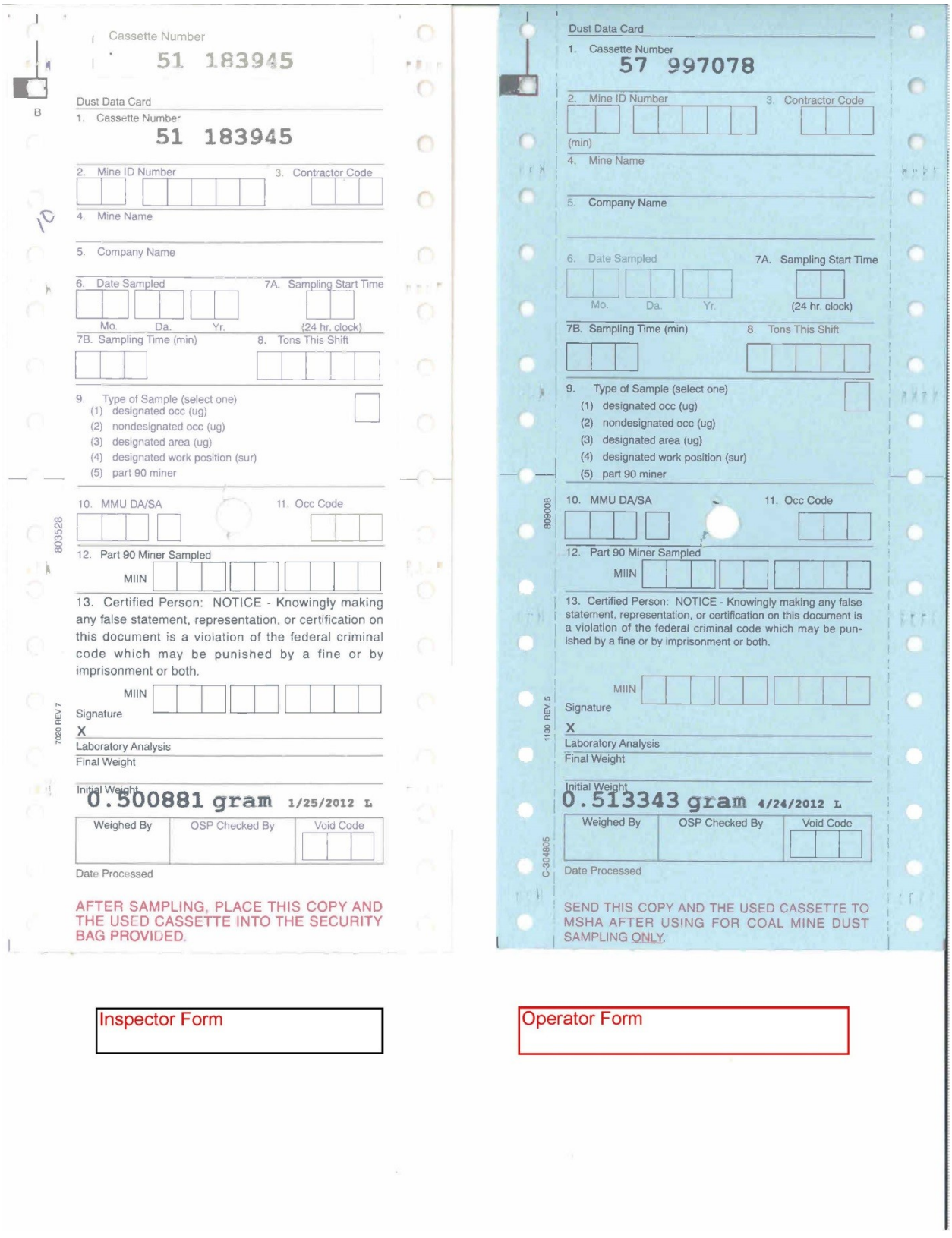
(1) Provided upon request to the representative of miners by the operator following notification of approval;

(2) Made available for inspection by the representative of miners; and

(3) Posted on the mine bulletin board within 1 working day following notification of approval. The approved plan and revisions shall remain posted on the bulletin board for the period that they are in effect.

(g) The ventilation plan for each mine shall be reviewed every 6 months by an authorized representative of the Secretary to assure that it is suitable to current conditions in the mine.

Dust Data Card 1219-0011 Front and Back




Inspector Form

Operator Form

30 CFR Parts 70, 71, and 90 require coal mine operators to collect and submit dust samples to MSHA for analysis to determine compliance with federal coal mine dust standards. 30 CFR §§ 70.209, 71.209 and 90.209 require dust data cards submitted with each dust sample to be completed by persons certified by MSHA to take dust samples.

The public reporting burden for this collection of information is estimated to average 63 minutes per response, including the time for sample unit preparation, on-site monitoring, disassembly and cleanup, and completion of the dust data card. Send comments regarding this estimated response time or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Program Evaluation and Information Resources, Mine Safety and Health Administration, U.S. Department of Labor, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203, and to the Office of Management and Budget, Paperwork Reduction Project (1219-0011), Washington, DC 20503.

In compliance with the Privacy Act of 1974, the following information is provided: solicitation of the information requested on this form, including the use of the Miner Individual Identification Number (MINN) for certified individuals and designated miners, is authorized by 30 CFR Parts 70, 71 and 90. The data will be used to determine compliance with federal coal mine dust standards and sampling requirements.

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB APPROVAL #1219-0011